

Town of Lovettsville

ZONING ORDINANCE

TOWN OF LOVETTSVILLE, VIRGINIA

ADOPTED: September 21, 2006

AMENDED:

June 28, 2007

June 26, 2008

August 28, 2008

November 20, 2008

June 25, 2009

November 19, 2009

May 13, 2010

October 28, 2010

February 24, 2011

March 10, 2011

December 8, 2011

January 26, 2012

February 28, 2013

June 27, 2013

Last Amended June 27, 2013

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The Town of Lovettsville Zoning Ordinance was originally adopted on November 17, 1992. A series of modifications, revisions and amendments were made between May 1993 and February 2005. These changes were made by formal amendments to the Zoning Ordinance and approved by a vote of the Mayor and Town Council. These changes are summarized in a Table that follows. The format of the original Zoning Ordinance was then later revised and approved by a vote of the Town Council in May 2005. In May 2005 the reformatted version of the Zoning Ordinance became the official Zoning Ordinance of the Town.

This new version, referred to as the Revised Zoning Ordinance, was adopted on September 21, 2006 by a vote of the Mayor and Town Council and shall replace all previous versions of the Zoning Ordinance of the Town of Lovettsville.

Town Council

Elaine Walker, Mayor
Robert Zoldos II, Vice-Mayor
Richard Efthim, Council Member
James McDonough, Council Member
Walter D. Martin, Council Member
Paul Miller, Council Member
Christopher Treptow, Council Member

Planning Commission

Christopher Treptow, Chairperson
Charlotte Coleman, Planning Commissioner
Michele Engel, Planning Commissioner
Diane Loftus, Planning Commissioner
Michael Senate, Planning Commissioner
Christopher Zierk, Planning Commissioner

Samuel A. Finz, Interim Town Manager
Elizabeth Whiting, Town Attorney
Anne Hennessey, Zoning Administrator

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REVISIONS AND AMENDMENTS

DATE	ACTION	CHANGE
May 27, 1993	Amendment to Zoning Ordinance	Numerous sections
November 23, 1993	Policy Clarification	9-2.1©
March 9, 1995	Amendment to Zoning Ordinance	unknown, no reference to Section
May 13, 1999	Amendment to Zoning Ordinance	9-1
December 16, 1999	Amendment to Zoning Ordinance	Article 8 (Signs)
August 24, 2000	Amendment to Zoning Ordinance	Article 9 (Administration)
		Article 6 (Landscaping)
March 15, 2001	Policy Adoption	Policy Regarding reservation of sanitary sewer capacity
March 15, 2001	Amendment to Zoning Ordinance	Added Library to the conditional use of R-3 zone
April 26, 2001	Amendment to Zoning Ordinance	2-1, 2-5, 4-1(a), 10-2.16(a)
June 21, 2001	Adopt Article 13 Floodplain Ordinance	Article 13
March 6, 2002	Adoption	Guide to Zoning Permit Applications and Fee Schedule
March 7, 2002	Adoption	Ordinance to Prohibit open air burning
July 25, 2002	Amendment to Zoning Ordinance	Delete 3-6, add 3-8
July 25, 2002	Amendment to Zoning Ordinance	Add 3-12, 4-7.10.E (b), 11.2.41
March 6, 2003	Approve	Zoning Enforcement Guidelines
June 5, 2003	Amendment to Zoning Ordinance	9-8
June 5, 2003	Amendment to Zoning Ordinance	4-7 through 4-10
September 25, 2003	Amendment to Zoning Ordinance	3-3 and 3-4,
September 25, 2003	Adoption of New Sections	3-3.1 through 3-3.9
January 6, 2005	Amendment to Zoning Ordinance	4-1 (ix)(Large Lot Community)
February 10, 2005	Amendment to Zoning Ordinance	4-6.10(e) (Town Center Building Height)
April 14, 2005	Reformatting	Entire Zoning Ordinance
May 18, 2005	Approve Modifications	Reformatted Zoning Ordinance
September 21, 2006	Adoption	New Zoning Ordinance
June 28, 2007	Amendment to Zoning Ordinance	Fitness Centers in T-C Dist.
June 26, 2008	Amendment to Zoning Ordinance	Modifications to Light Industrial District, Town Center District, Definitions
August 28, 2008	Amendment to Zoning Ordinance	Home Occupation
November 20, 2008	Amendment to Zoning Ordinance	Public Utilities Def. And Undergrounding Requirement
June 25, 2009	Amendment to Zoning Ordinance	Inoperable Vehicles
September 10, 2009	Amendment to Zoning Ordinance	Wall Check Plat
		Wireless Communications Equip.
November 23, 2009	Amendment to Zoning Ordinance	Model Homes / Sales Trailers
May 13, 2010	Amendment to Zoning Ordinance	Veterinary Hosp. / Fees
October 14, 2010	Amendment to Zoning Ordinance	Deck setbacks
October 28, 2010	Amendment to Zoning Ordinance	Swimming Pools, Hot Tubs, Spa
February 24, 2011	Amendment to Zoning Ordinance	Sign Regulations (Full Re-Write)
March 10, 2011	Amendment to Zoning Ordinance	Retirement Community

December 8, 2011	Amendment to Zoning Ordinance	Home Occupations
December 8, 2011	Amendment to Zoning Ordinance	Retirement Community
January 26, 2012	Amendment to Zoning Ordinance	Contractor Use
January 26, 2012	Amendment to Zoning Ordinance	Sign modifications
June 27, 2013	Amendment to Zoning Ordinance	Hours of Operation
June 27, 2013	Amendment to Zoning Ordinance	Open Space for Residential Uses

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AUTHORITY AND ENACTMENT

1-1 AUTHORITY AND ENACTMENT

This Ordinance, to be cited as the Zoning Ordinance of the Town of Lovettsville, is hereby ordained, enacted and published by the Town Council of the Town of Lovettsville, Virginia pursuant to the provisions of Title 15.2, Chapter 22, Article 7, Code of Virginia, 1950, and amendments thereto, to further the health, safety, order, prosperity, conservation of natural resources and general welfare of the public.

1-2 PURPOSE AND INTENT

This Ordinance shall be for the general purpose of promoting the health, safety and general welfare of the public, and to accomplish the objectives of Virginia Code Sections 15.2-2200, 15.2-2280 and 15.2-2283. Therefore, this Ordinance is designed:

- (a) To provide for adequate light, air, convenience of access, and safety from fire, flood, crime and other dangers;
- (b) To reduce or prevent congestion in the public streets;
- (c) To facilitate the creation of a convenient, attractive and harmonious community;
- (d) To facilitate the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewage, flood protection, schools, parks, forests, playgrounds, recreational facilities, airports and other public requirements;
- (e) To protect against destruction of, or encroachment upon historic areas;
- (f) To protect against one or more of the following: overcrowding of land, undue density of population in relation to the community facilities existing or available, obstruction of light and air, danger and congestion in travel and transportation, or loss of life, health, or property from fire, flood, panic, or other dangers; and
- (g) To encourage economic development activities that provides desirable employment and enlarges the tax base.
- (h) To provide for the preservation of forestal lands and other lands of significance for the protection of the natural environment;
- (i) To promote the creation and preservation of affordable housing suitable for meeting the current and future needs of the Town as well as a reasonable proportion of the current and future needs of the planning district within which the Town is situated; and
- (j) To protect surface water and ground water as defined in the Code of Virginia Section 62.1-255.

1-3 SEVERABILITY

Should any article, section, subsection or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not effect the validity or constitutionality of this Ordinance as a whole or any part thereof than the part so declared to be invalid or unconstitutional.

1-4 AMENDMENT

This Ordinance may be amended in whole or in part by the governing body in accordance with the provisions and requirements of the Code of Virginia Section 15.2-2285, 1950, as amended, and as set forth hereinafter in Article 10, Section 8.

1-5 REPEAL

All ordinances or portions of ordinances in conflict with this Ordinance are hereby repealed to the extent of their conflict.

1-6 TITLE

This Ordinance is known and may be cited as the "Zoning Ordinance of Lovettsville, Virginia".

1-7 DATE ARTICLE LAST AMENDED

September 21, 2006.

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ESTABLISHMENT OF DISTRICTS

2-1 APPLICATION OF DISTRICT REGULATIONS

Following the effective date of this Ordinance and except as hereinafter provided:

- (a) No building or structure shall be erected, moved, altered, rebuilt, or enlarged nor shall any land, structure or building be used, designed, or arranged to be used for any purpose or in any manner except in conformity with all regulations, requirements, and restrictions specified in this Ordinance for the district in which such building or land or structure is located.
- (b) No yard or open space required in connection with any building or use shall be considered as also providing a required yard or open space for any other building on the same or any other lot unless specific provisions of the Ordinance allow exceptions.
- (c) No lot shall be formed from part of a lot already occupied by a building unless such building, all yards and open spaces connected therewith, and the remaining lot comply with all requirements prescribed by this Ordinance for the district in which said lot is located and with the requirements of the Town's Subdivision Ordinance. No permit shall be issued for the creation of a building on any new lot thus created unless such building and lot comply with the provisions of this Ordinance and with the requirements of the Town's Subdivision Ordinance.
- (d) Nothing contained in this Ordinance shall require any change in the plans, construction or designated use of any building complying with the local laws in force prior to this Ordinance if the following is found to exist.
 - (i) A Permit shall have been duly issued prior to the date of first publication if notice or the public hearing in this Ordinance; or
 - (ii) The entire building shall have been constructed in accordance with such plans as have been filed with the Town and shall have been completed within one (1) year from the effective date of this Ordinance.
- (e) Any use not permitted by this Ordinance shall be deemed to be prohibited.
- (f) Any list of uses contained in any section of this Ordinance shall not be deemed to be an exhaustive list but to be included for the purposes of clarity and emphasis, and to illustrate some of the uses permitted or prohibited, as the case may be.

2-2 OFFICIAL ZONING MAP

The boundaries of said districts are hereby established as shown on the document or set of documents entitled "Zoning Map of the Town of Lovettsville, Virginia" which is found in Article 14 of this Ordinance together with all explanatory matter thereon, and is hereby adopted by reference and declared to be a part of this Ordinance. The Zoning Map shall be identified by the signature (or attested signature) of the Mayor, together with the date of adoption. A copy of said documents, indicating the latest amendments, shall be kept up-to-date for the use and benefit of the public.

2-3 DISTRICT BOUNDARIES

In determining the boundaries of districts shown on official Zoning Map:

- (a) Where district boundaries are indicated as approximately following the center lines of the streets, highways or watercourses, such center lines shall be construed to be such boundaries.
- (b) Where such boundaries are indicated as approximately following the property lines of parks or other publicly owned lands, such lines shall be construed to be such boundaries.
- (c) Unless otherwise shown, all district boundaries running parallel to streets shall be construed to be parallel to the center line of said streets and along the nearest lot line of the said boundary.
- (d) In all cases where dimensions are not shown on the Zoning Map, the location of boundaries shown on the Map shall be determined by the use of the scale appearing thereon.
- (e) In case of uncertainty as to the accurate location of a district boundary line in a particular instance, the Zoning Administrator shall determine the location. An appeal may be taken to the Board of Zoning Appeals as provided hereinafter.

2-4 ANNEXED TERRITORY

The Town Plan does not encourage annexation of additional properties to the Town. However, any properties which may be hereafter annexed to the Town shall be considered to be CR-1 Residential District until otherwise classified.

2-5 DATE ARTICLE LAST AMENDED

September 21, 2006.

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DISTRICT REGULATIONS

3-1 RESIDENTIAL ZONING DISTRICTS-GENERAL

Residential zoning districts are established to provide a variety of single-family detached zoning districts. These districts are created to encourage residential development in a manner that will preserve the small town character of the Town and provide compatibility between existing residential neighborhoods and new developments. Where applicable, written approval by the homeowners association shall be submitted as part of any zoning permit application related to that subdivision, except for the initial zoning permit authorizing construction of an approved building location and occupancy permits.

(a) GENERAL DESIGN STANDARDS

- (i) New developments should be an extension of the existing Town development pattern.
- (ii) Streets shall be designed and located in a manner to provide for continuation of and connection to existing streets and to maintain and preserve significant landmarks, trees, to minimize cut and fill and to preserve and protect views and vistas on and off the subject property.
- (iii) Blocks shall be generally laid out in a grid pattern with interconnecting roads.
- (iv) Provisions should be made for pedestrian and bicycle traffic both within the new development and within the Town pedestrian and bicycle network.
- (v) Pedestrian oriented developments, both residential and non-residential, should provide motor vehicle access and parking from the rear of properties, utilizing alley networks rather than driveway entrances from the public street system. Curb interruptions should be minimized.
- (vi) Parking in pedestrian oriented developments should be located at the rear or side of buildings. Parking lots and parking garages should not (A) abut street intersections or civic use lots; (B) be adjacent to squares or parks; or (C) occupy lots which terminate a street vista.
- (vii) New construction should be compatible with surrounding properties, in terms of formal characteristics such as height, massing, roof shapes and window proportions. Building elevations and architectural details sufficient to show compliance with this standard shall be submitted for approval to the Town Council prior to approval of final subdivision plat.
- (viii) All dwellings must meet the requirements of the Water and Sewer Ordinance of the Town of Lovettsville.
- (ix) Only one principal building and its accessory buildings may be erected on any lot within any residential district unless otherwise permitted by the Town Council in conjunction with the approval of a Conditional Use Permit.
- (x) Any illumination shall be arranged so as to eliminate glare onto any adjacent property or roadway and shall direct light in a downward direction to minimize interference with night vision.

- (xi) Parcels designated as open spaces shall have a minimum lot area of six thousand (6,000) square feet, shall be accessible and located in reasonable proximity to residents of the development. Open space shall not include streets, off-street parking and loading areas, areas so located or of such size or shape to have no substantial aesthetic or recreational value.

(b) **GENERAL STANDARDS FOR CERTAIN USES**

The following identified uses wherever permitted in a residential district shall conform to the standards set forth in this section, unless otherwise specifically modified in the provisions authorizing such use in a district:

- (i) **ACCESSORY APARTMENTS AND SEMI-INDEPENDENT DWELLING UNITS:** Accessory units are subject to the following standards:
 - (A) No such accessory apartment or dwelling unit shall exceed forty percent (40%) of the floor area of the principal dwelling or twelve hundred (1,200) square feet, whichever is less. The floor area of the accessory apartment or semi-independent dwelling unit shall not be required to be less than five hundred (500) square feet.
 - (B) Accessory apartments and semi-independent dwelling units shall be permitted only on lots served by public sewer. Accessory units not located within the principal structure shall be served by separate water and sewer services.
 - (C) A semi-independent dwelling unit shall be permitted only on a lot meeting the minimum requirements of the zoning district. Accessory apartments shall be permitted only on a lot meeting the minimum requirements of the zoning district and a minimum lot area of eight thousand (8,000) square feet.
 - (D) Not more than one (1) accessory apartment or semi-dwelling unit shall be located on a lot.
 - (E) Each accessory apartment shall have private kitchen, bath and toilet facilities. Semi-independent dwelling units shall have private bath and toilet facilities but shall not contain a full kitchen.
 - (F) Accessory units may be located within an accessory building or principal structure.
 - (G) One parking space per bedroom shall be provided on-site for each bedroom of the accessory apartment or semi-independent dwelling unit in addition to the parking required for the principal dwelling.
 - (H) A zoning permit is required.
- (ii) **BED AND BREAKFAST HOMESTAY, BED AND BREAKFAST INN and COUNTRY INN:** These establishments shall be subject to the following criteria:
 - (A) The owner of the bed and breakfast homestay shall reside in and manage the establishment.

- (B) The owner or manager of the bed and breakfast inn and country inn shall provide full time management of the establishment at all times the facility is occupied by guests.
 - (C) Bed and breakfast establishments shall not contain restaurant facilities, but may provide food service for transient guests of the facility only.
 - (D) A country inn may contain a full-service restaurant, in addition to guest rooms, that provides meal service to guests and the general public.
 - (E) A zoning permit is required.
 - (F) The lot on which the establishment is located shall not have less than eighty (80) feet of frontage on a state maintained road and the entrance shall be located on the same property as the establishment.
- (iii) **CHILD CARE HOME AND CHILD CARE CENTERS** (collectively, facilities): Child care homes and centers are permitted provided they comply with the following standards:
- (A) Child care facilities shall be registered with the County pursuant to the County Code.
 - (B) When calculating the total number of children cared for, resident children under the age of fourteen (14) shall be included.
 - (C) The home shall be the principal residence of the operator of the child care home.
 - (D) The facility shall comply with any and all requirements of the County and State Codes.
 - (E) Unless exempted by (F) below, a minimum of seventy-five (75) square feet per child of outdoor play space shall be provided on the lot the Child Care Facility is located and shall be shown on a schematic plan of the lot at the time of issuance of a zoning permit. A fence at least three and one half (3-1/2) feet in height shall completely enclose the play area so that children are safely contained inside, and that all persons entering the play area are within direct line of sight from the Child Care Center classroom areas.
 - (F) No play area shall be required on-site when it is demonstrated that the child care home or center is located with 1,000 feet of an existing park or play space of at least two (2) times the size required for the Child Care Home, providing that such park or play space may be accessed without crossing an arterial or collector road. Such park or play space shall either be a public park or play space or shall be dedicated to such uses as part of a local community association.
 - (G) No play equipment at Child Care Facilities shall be located within any required front yard setback or within five (5) feet of any side or

rear lot line. All play areas at Child Care Facilities shall be safely segregated from parking, loading or service areas.

- (H) Parking areas at Child Care Facilities shall be designed to enhance the safety of children as they arrive at and leave the facility.
- (I) Child Care Facilities shall have a designated pickup and delivery zone located adjacent to the child care structure in such a way that children do not have to cross vehicular travel ways to enter or exit the center.
- (J) Persons operating Child Care Facilities shall obtain a business license and pay the business license tax as described in the Town Business, Professional and Occupational License Tax Ordinance. Child Care Homes operated as home occupations shall be subject to section 3-1(b) (v).

(iv) **COMMERCIAL NURSERIES:** The following minimum standards apply to all retail sales associated with production nurseries and commercial nurseries:

- (A) In calculating the percentage for plants grown onsite, plants must be cultivated at the subject nursery for at least one (1) full season of new growth for that plant.
- (B) Plant production may be certified by the County Extension Agent, if requested by the Zoning Administrator.
- (C) Plants brought to the subject nursery for immediate resale are included in calculations for non-site produced plants and accessory products.
- (D) Accessory products shall be limited to plants brought to the nursery for immediate resale and to those related products related to the culture and care of plants sold such as pottery, baskets, garden accessories, baked goods and floral supplies. Propane, firewood, lawn and garden tractors or machine or other equipment sales are not accessory products.
- (E) The sales area for accessory products shall be limited to twenty-five (25%) of the gross sales area.
- (F) Nurseries shall be located on property having frontage measuring not less than eighty (80) feet on a state maintained road.
- (G) A zoning permit shall be required.

(v) **HOME OCCUPATION:** Home occupations may be conducted in a residence provided:

- (A) Residents of the dwelling and one non-resident employee, shall be permitted to be engaged in a home occupation business.

- (B) The use of dwelling for home occupations shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five percent (25%) of the floor area may be used in the conduct of the home occupation.
- (C) There shall be no change in the outside appearance of the building or premises or other visible evidence of the conduct of such home occupation. Internal alterations or construction modifications not customary on dwellings shall be prohibited.
- (D) No outside storage shall be used in conjunction with the home occupation.
- (E) Signs shall not be permitted.
- (F) The preparation of food or the hand manufacture of other products is permitted if it complies with other standards in this section.
- (G) No goods, products or commodities made on the premises or bought or secured for the express purpose of resale shall be sold on the premises directly to customers who come to the premises. This prohibition does not apply to the sale of goods, products or commodities over the Internet from the premises by residents of the premises in which case customers do not come to the premises.
- (H) No traffic shall be generated by such home occupation in greater volume than would normally be anticipated in a residential neighborhood. No expansion of parking areas on the site shall be permitted for home occupation activity.
- (I) Deliveries or pickups shall be allowed only between the hours between 9:00 a.m. and 6:00 p.m. Not more than two (2) trips per day shall be permitted for such purposes. Regular pickups and deliveries shall not be made by tractor trailer trucks.
- (J) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses beyond limits of the parcel of property. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage.
- (K) No hazardous materials may be manufactured, stored, processed or disposed of on the premises.
- (L) Persons conducting a home occupation shall obtain a business license and pay the business license tax as described in the Town's Business, Professional and Occupational License Tax Ordinance.
- (M) An application for Home Occupation shall be completed by the applicant and approved by the Zoning Administrator prior to the commencement of the home occupation.

- (vi) **WAYSIDE STANDS:** Wayside stands are permitted subject to the following provisions:
- (A) Wayside stands are for retail sales provided the principal sales items sold are farm and garden products produced principally onsite or other locations (separate parcels) used by the wayside stand operator for farming.
 - (B) Permanent retail sales areas within structures shall not exceed, in the aggregate, six hundred (600) square feet in floor area.
 - (C) Sales areas for accessory products shall be limited to 25% of the gross sales area or one hundred and fifty (150) square feet, whichever is less.
 - (D) Accessory products shall be limited to those products related to the care and culture of products produced on the site, such as pottery, baskets and garden accessories.
 - (E) Entrances and exits to the wayside stand from public roads shall be clearly delineated, shall provide safe ingress and egress from roads, and shall be channeled to prevent unrestricted vehicular access to and from the premises.
 - (F) The sale of seasonal products harvested on the site may occur throughout the area of actual production.
 - (G) Wayside stands may erect signs in compliance with Article 8 of this Ordinance.
 - (H) A Zoning Permit shall be obtained for the wayside stand.
- (vii) **CONSTRUCTION AND/OR SALES TRAILER:** The use is permitted subject to the following provisions:
- (A) The use shall be located on a lot that is within a recorded subdivision or on a lot with an approved site plan or a lot with an approved building location zoning. Its location is subject to any applicable proffers related to the site and its function must be directly related to the primary use established for the subdivision or lot wherein it is located.
 - (B) The use is permitted until the issuance of the last occupancy permit is approved for the development and until the completion of any bonded public improvements.
 - (C) The use shall provide two (2) off-street parking spaces on the lot or land on which the use is located. These parking spaces shall include the required handicapped space. The use must comply with any requirements that apply for handicapped parking for office use. Parking spaces may have a gravel surface.
 - (D) A minimum lot area of two thousand (2,000) square feet shall be provided for this use.
 - (E) The use shall not be located closer than twenty (20) feet from the property line of the lot upon which it is located. A zoning permit shall

be obtained for the use at least ten (10) business days prior to the time it is placed on the property.

- (F) A building permit is required from the County and a copy has to be filed with the Town within ten (10) business days of the placement of the use on the site.
- (G) The Zoning Administrator shall review and approve or deny a request for temporary construction and/or sales trailer permit. In assessing a request for a temporary trailer permit, the Zoning Administrator shall determine the appropriate number of trailers for the site, the need for and design of landscaping, and any other amenity that the Administrator shall deem in the interest of protecting adjacent residential property (zoned, planned or in use); consider the location and its effects on the surrounding neighborhoods and/or adjoining property owners; and may require terms and conditions on the location and placement, type and number of temporary construction and/or sales trailers; and screening and other reasonable conditions.
- (H) The use shall be located on a lot as close to a collector street or arterial road (as defined by the Virginia Department of Transportation) as possible.

(viii) **LARGE LOT COMMUNITY:** The following standards shall apply to large lot communities:

- (A) The total number of lots permitted in any large lot community shall not exceed twenty-five (25). Not more than two-(2) contiguous Large Lot Communities shall be permitted.
- (B) Minimum lot size within the large lot community is eight thousand (8,000) square feet, exclusive of floodplain and wetlands and the average lot size within the community shall not be less than twelve thousand (12,000) square feet.
- (C) The minimum lot width at the front setback line shall be eighty (80) feet.
- (D) A front yard of at least twenty-five (25) feet shall be provided for the principal structure and shall not exceed forty (40) feet.
- (E) The minimum total width of side yards shall be twenty-five (25) feet, with a minimum side setback of twelve (12) feet.
- (F) A minimum rear yard of twenty-five (25) feet shall be provided.
- (G) Accessory structures shall be subject to the same setbacks as the principal structure.
- (H) Length/Width Ratio: 3.0:1 maximum.
- (I) Building Height: Thirty Feet maximum. No accessory structure shall exceed the height of the principal structure.
- (J) Minimum Open Space Area: none required.

- (K) Lot Coverage: The aggregate lot coverage by all buildings shall not exceed three thousand (3,000) square feet.
- (L) Permitted uses and conditionally permitted uses shall be in accordance with Section 3-3.
- (M) All utility distribution lines shall be located underground.

(ix) TEMPORARY PORTABLE STORAGE CONTAINERS: The following standards shall apply to temporary portable storage containers:

- (A) Temporary portable storage containers shall be allowed in residential zoning districts under the following conditions:
 - (i) No more than two (2) containers are permitted on a lot at one time.
 - (ii) The size does not exceed 16 feet by 10 feet and 8 feet in height.
 - (iii) The length of time they are permitted is not more than fourteen (14) days within any twelve month period.

(x) MODEL HOME: The use is permitted subject to the following provisions:

- (A) The use may be located in any zoning district that includes a residential use, provided such use is located within the recorded subdivision it serves. It may incorporate a sales office.
- (B) The use must conform to all applicable requirements of the Zoning Ordinance.
- (C) The use is permitted until the issuance of the last occupancy permit within the subdivision it serves.
- (D) The Town may require a bond as appropriate to ensure that the atypical features, including, but not limited to, utilization of the garage for a sales office, will be removed or brought into conformance with residential building code requirements prior to conversion of the unit for residential occupancy.
- (E) Two (2) off-street parking spaces shall be provided on the lot where the use is located for the public and these spaces include the required handicapped space. The use must comply with any requirements that apply for handicapped parking for commercial office use.
- (F) All signs must comply with applicable Zoning Ordinance provisions.
- (G) The Zoning Administrator shall review and approve or deny a request for a temporary model home permit. In assessing a request for a temporary model home permit, The Zoning Administrator shall determine the appropriate number of model homes for the site, the need for and design of landscaping, and any other amenity that the Administrator shall deem in the interest of protecting adjacent residential property (zoned, planned or in use); consider the location and its effects on the surrounding neighborhoods and/or adjoining property owners; and may require terms

and conditions on the location and placement, type and number of model homes, screening, and other reasonable conditions.

- (H) The use shall be located on a lot as close to a collector street or arterial road (as defined by the Virginia Department of Transportation) as possible.

3-2 RESIDENTIAL DISTRICT CR-1

(a) PURPOSE:

This district is established and intended for use in regulating and administering land which may hereafter be incorporated into the Town Limits by annexation or boundary line adjustment. It is intended to mirror and harmonize with the CR-1 district as regulated by the Loudon County Zoning Ordinance so the new territory brought into the Town possesses the same development rights as it possessed as unincorporated land on the outskirts of Town. This district is the Town's lowest density residential zoning district and is intended for primarily single family detached houses at a density of not more than one dwelling per unit gross acre and other such uses as may be compatible with low density residential development.

(b) PERMITTED USES:

- (i) Agriculture including crop farms, horse farms, livestock farms, but excluding hog and poultry farms, commercial stockyards and feed lots; horticulture, including the growing of fruits, vegetables, flowers, or ornamental plants; forestry and viticulture.
- (ii) Accessory apartment or semi-independent dwelling unit, subject to Section 3-1(b) (i)
- (iii) Bed and Breakfast Homestay; subject to Section 3-1(b) (ii).
- (iv) Child Care Home, subject to Section 3-1(b) (iii).
- (v) Nature preserve, such as but not limited to, wildlife sanctuary, conservation area, and game preserve.
- (vi) Dwelling, single family detached.
- (vii) Home Occupation, pursuant to Section 3-1(b) (v).
- (viii) Public or private playground or neighborhood park.
- (ix) Wayside stand, when located on a parcel ten (10) acres or greater, pursuant to Section 3-1(b) (vi).
- (x) School, private elementary or middle for less than fifteen (15) pupils.
- (xi) Bus shelter.

- (xii) Commuter parking lot with less than fifty (50) spaces.
- (xiii) Construction and/or sales trailer, during a period of construction activity, pursuant to Section 3-1(b) (vii).
- (xiv) Nursery, production with state road frontage, pursuant to Section 3-1(b) (iv).
- (xv) Sewer pumping station.
- (xvi) Water pumping station.
- (xvii) Stable, private.
- (xviii) School (including colleges and universities), public.
- (xix) Model home, subject to Section 3-1 (b)(x).

(b) **CONDITIONALLY PERMITTED USES:**

The following uses may be permitted in the CR-1 district with a Conditional Use Permit:

- (i.) Bed and Breakfast Inn, pursuant to Section 3-1(b) (ii).
- (ii.) Cemetery, mausoleum or memorial park.
- (iii.) Church, synagogue and temple.
- (iv.) Community Center.
- (v.) Country Club.
- (vi.) Country Inn, pursuant to Section 3-1(b) (ii).
- (vii.) Fire Rescue and Police station.
- (viii.) Orphanage or other similar situation.
- (ix.) Private club or lodge.
- (x.) Sewage Treatment Plant.
- (xi.) Utility transmission line, overhead.
- (xii.) Water Treatment Plant.
- (xiii.) Camp, day and boarding.
- (xiv.) Library.
- (xv.) Golf Course.
- (xvi.) Commuter parking lot with greater than fifty (50) spaces.
- (xvii.) Structure or use primarily for federal, state, county or local governmental purposes, not otherwise listed.

- (xviii.) Playing fields and courts, lighted.
- (xix.) Public or private community or regional park.
- (xx.) Retirement Community
- (xxi.) School (including colleges and universities), private.
- (xxii.) Water storage tank.
- (xxiii.) Recreation establishment, outdoor.
- (xxiv.) Wireless Communications Equipment

(c) LOT REQUIREMENTS:

- (i) Size: twelve thousand (12,000) square feet minimum, exclusive of floodplain and wetlands.
- (ii) Width: The minimum lot width measured at the front setback line shall be than eighty (80) feet.
- (iii) Front Yard: Main structures shall be located not less than twenty (20) feet nor more than forty (40) feet from any street right-of-way. Garages shall be setback at least twenty (20) feet from the front line of the main structure.
- (iv) Side Yard: The minimum total width of the side yards for each main structure shall be twenty-five (25) feet, with a minimum setback of ten (10) feet. Accessory structures not exceeding fifteen (15) feet in height may be located not less than five (5) feet from a side or rear property line.
- (v) Rear Yard: Main structures shall have a minimum rear setback of twenty-five (25) feet. Accessory structures not exceeding fifteen (15) feet in height may be located not less than five (5) feet from a side or rear property line.
- (vi) Modifications of Required Yards: Building restriction lines, setbacks and yard requirements may be reduced by the Town Council in conjunction with a Conditional Use Permit. Such application shall specifically outline the lot size, lot width and yard standards and define the need. Permitted uses, conditionally permitted uses and unit density shall not be modified by this provision.
- (vii) Length/Width Ratio: 3.0:1 maximum.
- (viii) Minimum Open Space Area: A minimum of forty five percent (45%) of the site area shall be provided in open space. For the purpose of calculations, net site area shall be determined as the total site area exclusive of public road dedications, private access easements and alleyways, floodplains, slopes greater than twenty-five percent (25%) and wetlands. Additional open space shall be provided in a

sufficient amount that the gross density of one (1) lot per forty thousand (40,000) square feet is maintained based on the overall parcel excluding floodplain, public roads dedications and private access and alleyway easements, slopes greater than twenty-five percent (25%) and wetlands. Open space shall be preserved by means of a permanent open space easement or other ownership mechanism acceptable to the Town Council.

- (ix) Lot Coverage: lot coverage by all buildings shall not exceed fifty percent (50%) of the area contained within required setbacks or five thousand (5,000) square feet, whichever is less.
- (x) Building Height: Thirty (30) feet maximum. No accessory structure shall exceed the height of the principal structure.

(d) UTILITY REQUIREMENTS:

All public utilities located within the CR-1 zoning district shall be located underground and shall be designed per the Subdivision Ordinance Article V Required Installation of Public Improvements, Section 5.3 Public Utilities Installation Standards.

3-3 RESIDENTIAL DISTRICT R-1

(a) PURPOSE:

This district is established to provide locations for low to medium density residential uses. This district includes residential development and selected compatible uses. It is established to promote the efficient and well planned use of land, by encouraging the provision and conservation of open space through cluster development. Residential developments are encouraged to preserve the integrity of sites by protecting and promoting the preservation of steep slopes, desirable vegetation, historic features, wetlands and other natural features. Clustering is achieved in this district through the Open Space requirements found in 3-2(d) (viii).

Where land hereafter is incorporated into the Town limits by annexation or boundary line adjustments, said land is intended to mirror and harmonize with R-1 District regulations, so that the new territory brought into the Town has the same development rights as land already within the Town zoned R-1 as provided for in this Ordinance. R-1 is the lowest density residential zoning and is intended primarily for single family detached houses and other such uses as may be compatible with low density residential development.

(b) PERMITTED USES:

- (i) Single Family dwelling, detached.
- (ii) Public or private playground or Neighborhood Park.
- (iii) Child Care Home, subject to Section 3-1(b) (iii).
- (iv) Home Occupation, subject to Section 3-1(b)(v).

- (v) Construction and/or sales trailer, subject to Section 3-1(b) (vii).
- (vi) Model home, subject to Section 3-1 (b)(x).

(c) **CONDITIONALLY PERMITTED USES:**

The following uses may be permitted or expanded in the R-1 Zoning District, subject to the Conditional Use Permit process and criteria as established in this Ordinance:

- (i) Private clubs and organizations.
- (ii) Professional offices.
- (iii) Bed and Breakfast Homestay, subject to Section 3-1(b)(ii).
- (iv) Schools (including colleges and universities).
- (v) Churches.
- (vi) Child Care Center subject to Section 3-1(b) (iii).
- (vii) Libraries.
- (viii) Accessory Apartments or Semi-Independent Dwelling Unit, subject to Section 3-1(b) (i).
- (ix) Playing fields and courts, lighted.
- (x) Large lot communities subject to Section 3-1(b) (viii).
- (xi) Wireless Communications Equipment

(d) **LOT REQUIREMENTS**

- (i) Size: Eight thousand (8,000) square feet, minimum, exclusive of floodplain and wetlands.
- (ii) Width: The minimum lot width measured at the front setback line shall be sixty (60) feet.
- (iii) Front Yard: Structures shall be located not less than twenty (20) feet nor more than forty (40) feet from any street right-of-way. Garages shall be setback at least twenty (20) feet from the front line of the main structure.
- (iv) Side Yard: The minimum total width of the side yards for the main structure shall be twenty (20) feet, with a minimum side setback of eight (8) feet. Accessory structures not exceeding fifteen (15) feet in height may be located not less than five (5) feet from a side or rear property line.
- (v) Rear Yard: Main structures shall have a minimum rear setback of twenty-five (25) feet. Accessory structures not exceeding fifteen (15) feet in height may be located not less than five (5) feet from a side or rear property line.
- (vi) Length/Width Ratio: 3.0:1 maximum.
- (vii) Building Height: Thirty (30) feet maximum. No accessory structure shall exceed the height of the principal structure.

- (viii) Minimum Open Space Area: A minimum of thirty five percent (35%) of the net site area shall be provided as open space for all development projects creating more than twenty (20) lots. For the purpose of open space calculations, net site area shall be determined as the total site area exclusive of public road dedications, private access easements and alleyways, floodplain, slopes greater than twenty-five percent (25%) and wetlands.
- (ix) Lot Coverage: The aggregate lot coverage by all buildings shall not exceed seventy- five percent (75%) of the lot area or three thousand (3,000) square feet, whichever is less.
- (x) Modification of minimum lot size, width, and required yards: The lot size, lot width and required yards standards may be reduced by the Town Council in conjunction with a Conditional Use Permit. Such application shall specifically outline the lot size, lot width and yard standards and define the need. Permitted uses, conditionally permitted uses and unit density shall not be modified by this provision.
- (d) UTILITY REQUIREMENT:

All public utilities located within the R-1 zoning district shall be located underground and shall be designed per the Subdivision Ordinance Article V Required Installation of Public Improvements, Section 5.3 Public Utilities Installation Standards.

3-4 RESIDENTIAL DISTRICT R-2

- (a) PURPOSE:

This district is composed of moderate density residential uses. This district includes residential development and selected compatible uses. It is established to promote the efficient and well planned use of land, by encouraging the provision and conservation of open space through cluster development. Residential developments are encouraged to preserve the integrity of sites by protecting, and promoting the preservation of steep slopes, desirable vegetation, historic features, wetlands and other natural features. Clustering is achieved in this district through the Open Space requirements found in 3-3(d) (viii).
- (b) PERMITTED USES:
 - (i) Single family dwelling, detached.
 - (ii) Public or private playground or neighborhood park.
 - (iii) Child Care Home subject to Section 3-1(b) (iii).
 - (iv) Home Occupations, subject to Section 3-1(b)(v).
 - (v) Construction and/or sales trailers, subject to Section 3-1(b)(vii).
 - (vi) Model home, subject to Section 3-1 (b)(x).
- (c) CONDITIONALLY PERMITTED USES:
 - (i) Private clubs and organization.
 - (ii) Professional offices.

- (iii) Accessory apartment or semi-independent dwelling unit, subject to Section 3-1(b) (i).
 - (iv) Schools (including colleges and universities).
 - (v) Churches.
 - (vi) Child Care Center subject to Section 3-1(b) (iii).
 - (vii) Library.
 - (viii) Playing courts and fields, lighted.
 - (ix) Wireless Communications Equipment
- (d) LOT REQUIREMENTS:
- (i) Size: Seven thousand (7,000) square feet, minimum, exclusive of floodplain.
 - (ii) Width: The minimum lot width measured at the front setback line shall be fifty-six (56) feet.
 - (iii) Front Yard: Structures shall be located not less than twenty (20) feet nor more than forty (40) feet from any street right-of-way. Garages shall be setback at least twenty (20) feet from the front line of the main structure.
 - (iv) Side Yard: The minimum total width of the side yards for the main structure shall be twenty (20) feet, with a minimum side setback of eight (8) feet. Accessory structures not exceeding ten (10) feet in height may be located not less than five (5) feet from a side or rear property line.
 - (v) Rear Yard: Main structures shall have a minimum rear setback of twenty-five (25) feet. Accessory structures not exceeding ten (10) feet in height may be located not less than five (5) feet from a side or rear property line.
 - (vi) Length/Width Ratio: 3.0:1 maximum.
 - (vii) Building Height: Thirty (30) feet maximum. No accessory structure shall exceed the height of the principal structure.
 - (viii) Minimum Open Space Area: A minimum of twenty-five percent (25%) of the net site area shall be provided as open space for all development projects creating more than twenty (20) lots. For the purpose of open space calculations, net site area shall be determined as the total site area exclusive of public road dedications, private access easements and alleyways, floodplain, slopes in excess of twenty-five percent (25%) and wetlands.
 - (ix) Lot Coverage: Lot coverage by all buildings shall not exceed seventy-five percent (75%) of the area contained within the required setbacks or two thousand and five hundred (2,500) square feet, whichever is less.
 - (x) Modification of minimum lot size, width, and required yards: The lot size, lot width and required yards standards may be reduced by the Town Council in conjunction with a Conditional Use Permit. Such application shall specifically outline the lot size, lot width and yard standards and define the need. Permitted uses, conditionally permitted uses and unit density shall not be modified by this provision.

(e) UTILITY REQUIREMENT:

All public utilities located within the R-2 zoning district shall be located underground and shall be designed per the Subdivision Ordinance Article V Required Installation of Public Improvements, Section 5.3 Public Utilities Installation Standards.

3-5 RESIDENTIAL DISTRICT R-3

(a) PURPOSE:

This district is composed of certain higher density residential uses. The regulations for this district are designed to stabilize and protect the essentially residential characteristics of the district, and to permit certain commercial uses of a character unlikely to develop a general concentration of traffic, crowds of customers, and outdoor advertising. To this end, retail activity is restricted and this district is protected against encroachment of general commercial or industrial uses. Clustering is achieved in this district through the Open Space requirements found in 3-4(d) (viii).

(b) PERMITTED USES:

- (i) Single family dwelling, detached.
- (ii) Public or private playgrounds or neighborhood parks.
- (iii) Child Care Home, subject to Section 3-1(b)(iii).
- (iv) Home Occupations, subject to Section 3-1(b)(v).
- (v) Construction and/or sales trailers, subject to Section 3-1(b)(vii).
- (vi) Model home, subject to Section 3-1 (b)(x).

(c) CONDITIONALLY PERMITTED USES:

- (i) Private clubs and organizations.
- (ii) Professional Offices.
- (iii) Accessory apartment or semi-independent dwelling unit, subject to Section 3-1(b) (i).
- (iv) Schools (including colleges and universities).
- (v) Churches.
- (vi) Child Care Center subject to Section 3-1(b) (iii).
- (vii) Libraries.
- (viii) Wireless Communications Equipment

(d) LOT REQUIREMENTS:

- (i) Size: Six thousand (6,000) square feet, minimum, exclusive of floodplain and wetlands.
- (ii) Width: The minimum lot width measured at the front setback line shall be fifty (50) feet.

- (iii) Front Yard: Structures shall be located not less than twenty (20) feet nor more than forty (40) feet from any street right-of-way. Garages shall be setback at least twenty (20) feet from the front line of the main structure.
 - (iv) Side Yard: The minimum total width of the side yards for the main structure shall be eighteen (18) feet, with a minimum side setback of eight (8) feet. Accessory structures not exceeding ten (10) feet in height may be located not less than five (5) feet from a side or rear property line.
 - (v) Rear Yard: Main structures shall have a minimum rear setback of twenty-five (25) feet. Accessory structures not exceeding ten (10) feet in height may be located not less than five (5) feet from a side or rear property line.
 - (vi) Length/Width Ratio: 3.0:1 maximum.
 - (vii) Building Height: Thirty (30) feet maximum. No accessory structure shall exceed the height of the principal structure.
 - (viii) Minimum Open Space Area: A minimum of twenty-five percent (25%) of the net site area shall be provided as open space for all development projects creating more than twenty (20) lots. For the purpose of open space calculations, net site area shall be determined as the total site area exclusive of public road dedications, private access easements and alleyways, floodplain, steep slopes and wetlands.
 - (ix) Lot Coverage. The aggregate lot coverage of all buildings shall not exceed seventy-five percent (75%) of the lot area or two thousand (2,000) square feet, whichever is less.
 - (x) Modification of minimum lot size, width, and required yards: The lot size, lot width and required yards standards may be reduced by the Town Council in conjunction with a Conditional Use Permit. Such application shall specifically outline the lot size, lot width and yard standards and define the need. Permitted uses, conditionally permitted uses and unit density may not be modified by this provision.
- (e) UTILITY REQUIREMENT:
- All public utilities located within the R-3 zoning district shall be located underground and shall be designed per the Subdivision Ordinance Article V Required Installation of Public Improvements, Section 5.3 Public Utilities Installation Standards.

3-6 RETIREMENT COMMUNITY R-C

PURPOSE:

The purpose of the Retirement Community District is to provide housing and related professional office, commercial uses; and facilities and amenities for older persons (55 years of age or older) in accordance with the provisions of the Virginia Fair Housing Law (Va. Code Ann. Section 36-96.7, as amended-the "Act".); as well as non-residential uses, as permitted by the provisions of this section.

The residential portions of any retirement community shall be subject to restrictions recorded in a declaration of covenants and restrictions recorded among the land records of Loudoun County, limiting occupancy consistent with the requirements of the Act.

(b) PERMITTED USES:

- (i) Single family detached dwelling. (residential)
- (ii) Semi-detached dwelling. (residential)
- (iii) Attached dwelling. (residential)
- (iv) Multiple dwelling. (residential)
- (v) Congregate housing. (residential)
- (vi) Nursing home, or extended care facility.
- (vii) Model home, subject to Section 3-1.
- (viii) Construction and/or sales trailer, subject to Section 3-1.
- (ix) Home Occupation, subject to Section 3-1
- (x) Accessory Community use, subject to district requirements in this section.

(c) CONDITIONALLY PERMITTED USES:

- (i) Professional office. Such use shall be permitted only within projects with land area of ten (10) acres or more.
- (ii) Commercial. Personal services, food sales, lodging, medical and health services. Such use shall be permitted only within projects with a land area of ten (10) acres or more.
- (iii) Wireless communications equipment.
- (iv) Institutional.

(d) CONCEPT PLAN

A concept plan for the entire development shall be provided that identifies the following:

- (i) Separate facilities for congregate housing and nursing home uses may be incorporated into a concept plan with residential use, as permitted by the provisions of this section.
- (ii) Lot configuration for all uses in all phases of the project.
- (iii) Location(s) and description of all uses;
- (iv) Configuration of streets, sidewalks and trails.
- (v) Location and acreage of usable open space.
- (vi) Maximum building height.
- (vii) Maximum lot area, depth and width requirements;

- (viii) A construction phasing plan.
- (ix) Major stormwater management facilities.
- (x) Architectural elevations of all sides of all primary structures.
- (xi) 100-year flood plain (indicate location of any alteration).
- (xii) Visitor parking spaces.

(e) PHASING:

Describe the timing of residential and non-residential development using the following criteria:

- (i) Commercial space shall not be occupied until 50 percent of the total residential units are occupied.
- (ii) Fifty (50) percent of commercial space must be occupied before more than 85 percent of the total residential units may be occupied.

(f) DISTRICT REQUIREMENTS:

- (i) Minimum district size (acres): 5
- (ii) Housing mix: shall include at least two (2) housing types (e.g. single-family detached and multifamily).
- (iii) Maximum Building height:
 - (a) single family detached, semi-detached, and attached residential dwelling units: 35 feet
 - (b) office, commercial, nursing homes, congregate housing, institutional, and multifamily residential structures: 40 feet
- (iv) Parking and access: See table 4-1.
- (v) Visitor parking: sufficient visitor parking shall be provided for all residential units in convenient locations that can be provided on public or private streets or in separate parking areas.
- (vi) Open space:
 - (a) A minimum of twenty-five percent (25%) of the net (excluding street ROW and flood plain) acreage of the entire development shall be provided as usable open space.
 - (b) Open space shall comply with applicable regulations in Article 5 Open Space and Recreation Space.

- (vii) Management and maintenance: the operation and maintenance of facilities, open space and amenities that are not conveyed in fee simple to residents or to commercial owners of non-residential facilities, shall be the responsibility of one or more Homeowners or Commercial Owners Associations. When more than one such Association is charged with the obligations of this section, the organizational documents for each such association shall address the allocation of responsibilities among them in order to assure that the duties and the party responsible for discharging them are clearly assigned. Every declaration of covenants, organizational charter or similar document addressing any aspect of the obligations imposed by this section, or amendment of such document, shall be submitted for advance review and comment by the Town Attorney before such document may be executed and recorded.
- (viii) Utility requirement: All public utilities located within the R-C zoning district shall be located underground and shall be designed per the Subdivision Ordinance Article V Required Installation of Public Improvements, Section 5.3 Public Utilities Installation Standards.
- (ix) Accessory community use is required.
- (x) Use ratio: land area of the total non-residential use(s) (includes nursing home or extended care facility; commercial; and professional office use) may not exceed ten (10) percent of the gross acreage of the project.

(g) LOT REQUIREMENTS:

- (i) Minimum lot size (square feet):
 - a) Single family dwelling unit: 4,500
 - (b) Semi- detached dwelling unit: 3,000
 - (c) Attached dwelling unit: 2,000
 - (d) Multiple dwelling: 8,000
- (ii) Minimum lot width (feet):
 - (a) Single family dwelling unit: 50
 - (b) Semi-detached dwelling: 40
 - (c) Attached dwelling: 30
 - (d) Multiple dwelling: 80
- (iii) Setbacks (feet):
 - (a) Single family detached dwelling unit:
 - (1) front yard: 20
 - (2) side yards: 8

- (3) rear yard: 8
- (b) Semi-detached dwelling unit:
 - (1) front yard: 20
 - (2) side yards: 8, or 0 if attached
 - (3) rear yard: 8, or 0 if attached
- (c) Attached dwelling unit:
 - (1) front yard: 20
 - (2) side yards: 25, or 0 if attached
 - (3) rear yard: 25
- (d) Multiple dwelling structure and congregate housing:
 - (1) front yard: 30
 - (2) side yards: 30. 15 if adjacent to common open space
 - (3) rear yard: 30. 15 if adjacent to common open space.
- (e) Professional office, commercial:
 - (1) front yard: 20
 - (2) side yards: 25, or 0 if attached
 - (3) rear yard: 25
- (f) Nursing home or extended care:
 - (1) Front yard: 30
 - (2) Side yards: 30. 15 if adjacent to common open space
 - (3) Rear yard: 30. 15 if adjacent to common open space

3-7 TOWN CENTER PLANNED DEVELOPMENT DISTRICT T-C

(a) PURPOSE:

This district is established to provide for a compatible mixture of commercial, cultural, institutional, governmental, and residential uses in a compact pedestrian oriented traditional town center. This district provides for dwellings, shops and workplaces located in close proximity to each other with well configured squares, greens, landscaped streets and parks woven into the pattern of the Town Center and dedicated to collective social activity, recreation and visual enjoyment. Clustering is achieved in this district through the Open Space requirements found in 3-7(b) (vi).

(b) OVERVIEW:

- (i) Size. A Town Center Planned Development consists of an area of not less than twenty (20) contiguous acres. Property is considered contiguous even if separated by a public roadway.
 - (ii) Areas within the Town Center Planned Development. The Town Center Planned Development is divided into at least two (2) types of areas. Each area has different land use and site development regulations. The Town Center Planned Development must have a Town Center Core and Mixed Residential Area. A Town Center Fringe may be included in the Town Center Planned Development.
 - (iii) Town Center Core. The Town Center Core serves as the focal point of the Town Center Planned Development and contains retail, commercial, civic and public services. The Town Center Core is pedestrian oriented and is designed to encourage pedestrian movement. Town Center Core uses include retail shops, restaurants, offices, post office, governmental offices, and dwellings above the first floor of permitted commercial uses.
 - (iv) Town Center Residential Area. The Town Center Residential Area includes a variety of residential land uses and open space. A Town, Center Residential Area promotes pedestrian activity through well designed streetscapes that also provide for the safe and efficient movement of vehicular traffic.
 - (v) Town Center Fringe. The Town Center Fringe area may contain commercial uses that are not appropriate in the Town Center Core Area but which serve the local residents.
 - (vi) Open Space. Open space is significant part of the Town Center Planned Development design. Formal and informal open spaces are required. These serve as areas for community gatherings, landmarks and organizing elements for the neighborhood. Open space may include squares, plazas, greens, parks and greenbelts.
- (c) A Town Center Planned Development district is a zoning district that is created in the same manner as other zoning districts. Additional requirements are described in this article.
- (d) **CONCEPT PLAN REQUIRED:**
- An applicant for a Town Center Planned Development shall prepare a Concept Plan as part of the zoning application. The Concept Plan shall include the following information:
- (i) Location and size of the Town Center Core, Town Center Residential Area and Town Center Fringe, if applicable;
 - (ii) Locations of major civic uses;
 - (iii) Layout of the road network;
 - (iv) General plan for pedestrian circulation, paths, bikeways and trails;
 - (v) Locations and size of private open space and public open space;

- (vi) Maximum number and types of dwellings;
- (vii) Non-residential uses by general category;
- (viii) Maximum floor area of non-residential space;
- (ix) Locations and general character of all uses;
- (x) General plan for landscaping showing lawns, greens, tree cover, landscape screens, and buffers;
- (xi) Maximum building height limitations;
- (xii) Maximum lot area, depth and width requirements;
- (xiii) Minimum yard requirements;
- (xiv) Maximum size, height and numbers of signs with the general locations of proposed signs;
- (xv) A construction phasing plan for the project if applicable;
- (xvi) Locations and types of drainage improvements;
- (xvii) The location of existing utilities and easements that are within or immediately adjacent to the subject property; and
- (xviii) Preliminary architectural standards for the Town Center Core.

(e) **ADOPTION OF CONCEPT PLAN:**

The Concept Plan for the Town Center Planned Development shall be included in the ordinance zoning the land as a Town Center Planned Development and shall govern the general layout, mix intensity, architectural design, timing and nature of permitted uses.

(f) **REGULATION MODIFICATION BY TOWN COUNCIL:**

The Town Council may, at the time a Town Center Planned Development district is created, modify the permitted uses or the site development regulations set forth in this section. The modifications shall be included in the ordinance zoning the property. Modifications may be permitted only if justified by exceptional circumstances and must be consistent with the character and intent of the Town Center Planned District. The Town Council may modify or waive design standards and requirements of Article 4 of the Subdivision Ordinance of Lovettsville. Substitute standards shall be specifically proffered and accepted by the Council.

(g) **PRELIMINARY PLAT OR SITE PLAN:**

Applications for preliminary plat or site plan approval for all or part of a planned development may be filed after approval of the zoning map amendment creating the Town Center Planned Development. The application shall be reviewed and approved or disapproved in accordance with the requirements of the Subdivision Ordinance of Lovettsville.

(h) **FINAL PLAT OR SITE PLAN:**

Applications for final plat or site plan approval for all or part of a planned development may be filed after approval of the zoning map amendment creating the Town Center Planned Development. The application shall be reviewed and

approved or disapproved in accordance with the requirements of the Subdivision Ordinance of Lovettsville.

(i) PERMITTED USES

- (i) Town Center Core.
 - (A) Retail sales and services
 - (B) Personal services
 - (C) Medical and health services
 - (D) Professional and government offices
 - (E) Child Care Center subject to Section 3-1 (b)(iii)
 - (F) Fitness center
 - (G) Construction and/or sales trailer, subject to Section 3-1 (b)(vii).
- (ii) Town Center Residential Area:
 - (A) Single family dwelling.
 - (B) Park, public.
 - (C) Recreation facility.
 - (D) Home Occupation subject to Section 3-1(b) (v).
 - (E) Model home, subject to Section 3-1 (b)(x).
 - (F) Construction and/or sales trailer, subject to Section 3-1 (b)(vii).
- (iii) Town Center Fringe.
 - (A) All uses permitted in the Town Center Core
 - (B) Home and Yard retail sales without outdoor storage
 - (C) Child Care Center subject to Section 3-1 (b)(iii)
 - (D) Bed and Breakfast subject to Section 3-1 (b)(ii)
 - (E) Construction and/or sales trailer, subject to Section 3-1 (b)(vii).

(j) CONDITIONALLY PERMITTED USES

- (i) The following uses may be permitted in the Town Center Core Area with a Conditional Use Permit (See Section 10-7) or with an Amendment to the zoning concept plan.
 - (A) Bank or financial institution, including drive-through window.
 - (B) Pharmacy, including drive-through window.
 - (C) Performing Arts Center
 - (D) Museum facilities
- (ii) The following uses may be permitted in the Town Center Residential Area with a Conditional Use Permit (See Section 10-7):
 - (A) Child Care Center subject to Section 3-1(b) (iii).
 - (B) Religious facilities.
 - (C) Accessory Apartment.
 - (D) Congregate housing facility.
 - (E) Accessory structures with a height over fifteen (15) and less than twenty (20) feet in height.
- (iii) The following uses maybe permitted in the Town Center Fringe Area with a Conditional Use Permit (See Article 10-7):
 - (A) Veterinary Hospital.
 - (B) Automotive service facilities without outdoor vehicle storage.

- (C) Medical Care Facility, outpatient only.
 - (D) School.
- (iv) Wireless communications equipment
- (k) LOT REQUIREMENTS:
 - (i) Town Center Core:
 - (A) Minimum Lot Size: two thousand five hundred (2,500) square feet, exclusive of floodplain.
 - (B) Width: Twenty-five (25) feet minimum.
 - (C) Front Yard: None, provided that any off-street parking spaces that may be required or otherwise provided on the same lot as the building shall be set back at least twenty-five (25) feet from the front property line.
 - (D) Side yard: None, except fifteen (15) feet minimum for a side yard of a non-residential use abutting a lot used or planned for residential use.
 - (E) Rear yard: None, except thirty (30) feet minimum for a rear yard of a non-residential use abutting a lot used or planned for residential use.
 - (ii) Town Center Residential Area.
 - (A) Minimum Lot Size seven thousand five hundred (7,500) square feet exclusive of floodplain.
 - (B) Width: Sixty (60) feet minimum.
 - (C) Front Yard. Ten (10) feet minimum with a maximum front yard setback of twenty five (25) feet.
 - (D) Side Yard. The minimum total width of the side yard is fifteen (15) feet with a minimum side yard setback of five (5) feet.
 - (E) Rear Yard. The main structure shall have a minimum rear yard setback of twenty five (25) feet. Accessory buildings shall have a minimum rear yard setback of five (5) feet.
 - (iii) Town Center Fringe Area:
 - (A) Minimum Lot Size: Seven thousand five hundred (7,500) square feet, exclusive of floodplain.
 - (B) Width: Seventy (70) feet minimum.
 - (C) Front: Ten (10) feet minimum with no maximum.
 - (D) Side Yard: The minimum total width of the side yards is twenty-five (25) feet with a minimum side yard setback of ten feet.
 - (E) Rear Yard: All structures shall have a minimum rear yard setback of twenty-five (25) feet.
 - (iv) Other Yard Requirements:
 - (A) Adjacent to Roads. No areas for collection of refuse or loading area shall be permitted closer than thirty-five (35) feet to the right of way for any public road. No parking areas of collections or refuse or loading spare shall be permitted in areas between building and streets where such uses are visible from any road.
 - (v) Building Requirements:

- (A) Lot Coverage. No requirement within the Town Center Core. Building coverage within the Town Center Residential Area shall not exceed thirty percent (30%) of the lot area. Building coverage within the Town Center Fringe Area shall not exceed fifty percent (50%) of the lot area.
- (B) Building Height. Non-residential buildings may be erected up to thirty five (35) feet in height from grade. Residential buildings may be erected up to thirty three (33) feet in height from grade except that no accessory structure shall be more than fifteen (15) feet in height without a conditional use permit. For purposes of this Section, building height shall be defined as the vertical distance measured from the average elevation of the finished grade adjoining the building at the front wall only to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and to the mean height between the highest eaves and the highest ridge of gambrel, hip, and gable roofs.
- (C) Architectural Design- Building materials and architectural scales are encouraged to be based on historical examples in Lovettsville. German architectural design elements are encouraged.
- (D) Maximum building size by right, Town Center Core Area. Except for governmental or other public uses, no building within the Town Center Core shall exceed six thousand five hundred (6,500) square feet in footprint area unless permitted under subsection (F) below. Governmental or other public uses in the Town Center Core may be established in a building of up to seven thousand five hundred (7,500) square feet, or greater with a conditional use permit pursuant to subsection (F) below.
- (E) Maximum building size by right, Town Center Fringe Area. No building within the Town Center Fringe shall exceed seven thousand five hundred (7,500) square feet in footprint area except as permitted under subsection (G) below.
- (F) Maximum building size with a conditional use permit, Town Center Core Area. Buildings with a footprint greater than seven thousand five hundred (7,500) square feet for governmental or other public uses or six thousand five hundred (6,500) square feet for all other permitted uses. Building footprint shall not exceed eighteen thousand five hundred (18,500) square feet for any use in the Town Center Core.
- (G) Maximum building size with a conditional use permit, Town Center Fringe Area. Buildings with a footprint area greater than seven thousand five hundred (7,500) square feet and not more than nine thousand (9,000) square feet.

(I) LAND USE LIMITATIONS

- (i) The principal entrances to all buildings in the Town Center Core shall be from the front sidewalk, public plaza or Town Green.

- (ii) Centralized parking areas are encouraged throughout the Town Center with shared parking areas between similar uses.
 - (iii) Parking areas for non-residential uses shall be located a minimum of twenty-five (25) feet from the front property line.
 - (iv) Pedestrian linkages shall be established within and between blocks in the Town Center and between the Town Center and surrounding neighborhoods. Pedestrian linkages are encouraged to maintain the Town as a single cohesive neighborhood.
 - (v) Sidewalks shall be provided adjacent to all streets. Sidewalks shall be a minimum of six (6) feet in width in the Town Center Core Area. Sidewalks shall be a minimum of four (4) feet in width in the Town Center Residential Area.
 - (vi) All off-street parking lots shall be landscaped in accordance with Section 6-4 of this ordinance and shall not interfere with the reasonable continuity of building facades and pedestrian activity.
 - (vii) Landscaping, buffering and screening shall be used to screen outdoor storage, areas for collection of refuse, loading areas and parking from streets and residential lands.
 - (viii) At least twenty-five percent (25%) of the Town Center Residential Area shall be reserved for open space and recreation available to the general public. Areas provided for landscaping, buffering and screening required by Article 6 shall not qualify as required open space and recreation area. Open space shall be provided and maintained as required by Section 3-7(l) (vii) of this Ordinance.
 - (ix) Street planning and site planning shall promote pedestrian circulation within the proposed development providing connections to existing neighborhoods and commercial areas to maintain the Town as a pedestrian friendly community.
 - (x) The maximum residential development potential of the Town Center Residential Area shall be calculated based upon a density of four (4) dwelling units per net acre excluding roads and floodplain. Accessory apartments are not included in calculating the maximum residential development potential.
- (m) **MANAGEMENT OF COMMON OPEN SPACE AND IMPROVEMENTS:** All common lands and improvements shall be established and maintained in accordance with the following requirements:
- (i) The developer shall organize an incorporated property owners association to ensure the maintenance of common open space and improvements.
 - (ii) Organizations established for this purpose shall meet the following requirements:
 - (A) Organizations shall be established prior to the sale of any lots.
 - (B) All persons having ownership of property within the development shall have membership rights in the organization.

- (C) Organizations shall own and manage all common open space and improvements.
- (D) All lands and improvements shall be described as to locations, size use in the declaration of covenants, conditions and restrictions. This declaration shall set forth the method of assessment for maintenance of common land and improvements. Covenants, conditions and restrictions shall run with the land and be in full force and effect for at least twenty (20) years and shall be automatically extended for successive ten (10) year periods unless terminated in accordance with this section.
- (E) Organizations shall not be dissolved nor shall they dispose of any common open space except to an organization established to own and maintain common open space, to the Town or to other appropriate governmental agency.
- (iii) No common open space shall be denuded, defaced or otherwise disturbed without prior approval of the Town Council. This requirement shall not apply to regular and necessary maintenance of common open space.
- (iv) Any private streets created by this Ordinance shall provide appropriate vehicular and pedestrian access for abutting lot owners and appropriate access for public vehicles.
- (v) The developer shall submit with the application for preliminary plat or development plan approval, a fiscal plan for a minimum of ten (10) years, including adequate reserve funds, for the maintenance and care of all lands, streets, facilities, and uses under the purview of the property owner's organization.
- (n) UTILITY REQUIREMENT: All public utilities located within the T-C zoning district shall be located underground and shall be designed per the Subdivision Ordinance Article V Required Installation of Public Improvements, Section 5.3 Public Utilities Installation Standards.

3-8 PLANNED INFILL DEVELOPMENT DISTRICT

- (a) Purpose. This district is created to permit development of communities on infill parcels in order to create diversity in housing stock compatible with the pattern of existing facing houses of surrounding neighborhoods.
- (b) Minimum District size shall be 5 contiguous acres and the maximum shall be 7 contiguous acres.
- (c) Concept Plan Required. An applicant for a Planned Infill Development shall prepare a Concept Plan as part of the zoning application that shall include the following:

- (i) Locations and general character of all uses;
 - (ii) Maximum number and types of dwellings;
 - (iii) Layout of the road network;
 - (iv) General plan for pedestrian circulation, paths, bikeways and trails;
 - (v) Location and size of private open space and public open space, as applicable;
 - (vi) Maximum building height limitations;
 - (vii) Maximum lot area, depth and width requirements;
 - (viii) A construction phasing plan, if applicable;
 - (ix) Locations and types of drainage improvements;
 - (x) The location of existing utilities and easements that are within or immediately adjacent to the subject property;
 - (xi) Preliminary architectural standards for all proposed structures proposed to be constructed by the applicant;
 - (xii) Demonstrate conformance with the Town Plan.
- (d) At the applicant's option, a preliminary subdivision plan meeting the requirements of the Lovettsville Subdivision Ordinance 2000 (as amended) may be submitted as a proffered Concept Plan and processed concurrently with the rezoning application.
- (e) Adoption of Concept Plan. The Concept Plan for the Planned Infill Development shall be included in the ordinance that approves the zoning map amendment land and shall govern the general layout, housing mix, intensity, architectural design, timing and nature of permitted uses.
- (f) Permitted Uses.
- (i) Single Family Detached Dwelling
 - (ii) Duplex Dwelling, Vertical
 - (iii) Park, private/neighborhood
 - (iv) Recreation Facility
 - (v) Home Occupation, subject to Section 3-1(b)(v).
 - (vi) Model home, subject to Section 3-1 (b)(x).
 - (vii) Construction and/or sales trailer, subject to Section 3-1 (b)(vii).
- (g) Conditionally Permitted Uses.
- (i) Child Care Center subject to Section 3-1(b)(iii).
 - (ii) Accessory Apartment or semi-independent dwelling unit, subject to Section 3-1(b) (i).
 - (iii) Accessory Structures greater than 15 feet in height but less than 20 feet in height.
 - (iv) Wireless communications equipment
- (h) Lot Requirements-Single Family Detached
- (i) Minimum Lot Size: 7,000 square feet exclusive of floodplain
 - (ii) Minimum Lot Width: 60 feet
 - (iii) Maximum Length/Width: 3.5:1
 - (iv) Front yard setback: Minimum 20 feet/Maximum 40 feet
 - (v) Side yard setback: Minimum 6 feet
 - (vi) Rear yard setback: Minimum 25 feet

- (i) Lot Requirements-Duplex, Vertical
 - (i) Minimum Lot Size: 4,800 square feet exclusive of floodplain
 - (ii) Minimum Lot Width: 40 feet
 - (iii) Maximum Length/Width: 3.5:1
 - (iv) Front yard setback: Minimum 20 feet/Maximum 40 feet
 - (v) Side yard setback: Minimum 6 feet
 - (vi) Rear yard setback: Minimum 25 feet
 - (vii) No more than 25 percent of the total number of houses of a subdivision shall be of this building type.
- (j) Building Requirements-Single Family Detached
 - (i) Lot Coverage. The aggregate lot coverage shall not exceed 75 percent or 2,000 square feet, whichever is less.
 - (ii) Building Height. Residential buildings may be erected up to 30 feet in height. No accessory structure shall exceed 15 feet in height except as approved by conditional use permit.
- (k) Building Requirements-Duplex, Vertical
 - (i) Lot Coverage. The aggregate lot coverage by all buildings shall not exceed 75 percent or 2000 square feet, whichever is less.
 - (ii) Building Height. Residential buildings may be erected up to 30 feet in height. No accessory structure shall exceed 15 feet in height except as approved by conditional use permit.
- (l) Common Open Space Requirements:
As approved on Concept Plan.
- (m) Lot Access Requirements:
 - (i) Maintenance of such alleys shall be the obligation of a homeowners association meeting the requirements of the Lovettsville Subdivision Ordinance 2000 (as amended).
 - (ii) All duplex lots shall have frontage on streets intended to be accepted by the Virginia Department of Transportation.
 - (iii) Not more than 20% of the total number of lots may lack frontage on a public street.
- (n) Utility Requirements: All public utilities located within the PIDDD zoning district shall be located underground and shall be designed per the Subdivision Ordinance Article V Required Installation of Public Improvements, Section 5.3 Public Utilities Installation Standards.

3-9 (RESERVED)

3-10 (RESERVED)

3-11 COMMERCIAL AND LIGHT INDUSTRIAL ZONING DISTRICTS - GENERAL

- (a) PURPOSE:

Commercial zoning districts are established to accommodate a variety of commercial and service related activities within the existing and historic commercial areas of Lovettsville. All properties within the Commercial Zoning Districts shall be subject to the following standards:

- (b) **LIGHTING REQUIREMENTS:**
 - (i) No canopy or roof fascia of any size or dimension shall be constructed, reconstructed, or altered in such manner as to have internal lighting of any kind.
 - (ii) All site lighting, if any, shall utilize fully shielded cut-off fixtures and be designed and located so as to prohibit glare onto adjacent properties.
- (d) **HOURS OF OPERATION:** Any business located within one hundred (100) feet of the nearest property line of a residential use, located within a residential district, shall close to the public not later than 11:00 p.m. each day and shall not reopen earlier than 7:00 a.m. All businesses within the Town limits shall close to the public not later than 12:00 midnight and shall not reopen earlier than 6:00 a.m.
 - i. Hours of Operation may be extended by the Town Council with a Conditional Use Permit. Such application shall specifically define the need for the modification.
 - ii. All business and commercial uses must meet the following requirements:
 - a. All deliveries shall only occur during permitted public business hours.
 - b. All outdoor business related activities shall only occur during permitted public business hours.
 - c. All business activity that is audible at the property line shall only occur during permitted public business hours.
 - d. Refuse and dumpster collection shall only occur between 7:00 a.m. and 7:00 p.m. Monday through Friday and between 9:00 a.m. and 7:00 p.m. Saturday and Sunday.
 - e. Construction shall only occur between 7:00 a.m. and 7:00 p.m. Mondays through Fridays, construction shall only occur between 9:00 a.m. and 7:00 p.m. on Saturdays. No construction shall occur on Sundays.
- (d) **OUTDOOR STORAGE:** All exterior storage areas of goods and materials where permitted, shall be fenced and shall be setback a minimum of ten (10) feet from side and rear property lines. Exterior storage of goods and materials shall not be permitted within required front yards. Type A landscape buffering shall be provided to exterior storage areas and shall comply with the landscaping, buffering and screening requirements contained in Article 6.
- (e) **HAZARDOUS MATERIALS:** Businesses located within any commercial zoning district shall not store hazardous chemicals in excess of the threshold levels established by SARA Title III.

(f) GENERAL STANDARDS FOR CERTAIN USES:

The following identified uses, wherever permitted in a commercial or light industrial district, shall conform to the standards set forth in this section, unless otherwise specifically modified in the provisions authorizing such use in a district:

VETERINARY HOSPITALS: This use shall be subject to the following development criteria:

- (A) The entire business must be conducted wholly within a completely enclosed soundproofed, heated and air-conditioned building, except for a limited outdoor fenced dog walk area.
- (B) Noise and odors created by activities within the facility shall not be perceptible beyond the property line or facility itself if the property has other buildings with human activity.
- (B) No animals shall be housed outside the building at any time.
- (D) Outdoor features shall comply with any appropriate design or amenity policies in the Town Comprehensive Plan.
- (E) Additional buffering, screening or landscaping may be required under conditional use permits, especially to protect visual or other adverse impacts on residential areas.

3-12 COMMUNITY COMMERCIAL DISTRICT C-1

(a) PURPOSE:

This district is designed to accommodate general commercial business to which the public requires direct and frequent access, but which is not characterized by constant heavy trucking other than stocking and delivery of retail goods. The Town intends that existing residential buildings be converted to commercial use rather than have new buildings constructed whenever possible.

(b) PERMITTED USES:

- (i) Mixed use commercial dwellings.
- (ii) Child Care Centers, day care centers or nursery schools subject to Section 3-1(b)(iii).
- (iii) Bed and Breakfast subject to Section 3-1(b) (ii).
- (iv) Country inns.
- (v) Corporate center.

- (vi) Churches, places of worship.
- (vii) Fraternal clubs, lodges, and community buildings for use by non-profit organizations.
- (viii) Dry Cleaner, transfer facility only.
- (ix) Offices, Administrative, Business and Professional.
- (x) Offices, Medical and Dental.
- (xi) Technology offices.
- (xii) Banks and financial institutions, excluding drive-through windows.
- (xiii) Government Buildings and facilities.
- (xiv) Post Office.
- (xv) Museums.
- (xvi) Studio space - artist, crafter, writer.
- (xvii) Museum, cultural center.
- (xviii) Dance, Music and/or Fitness studio.
- (xix) Park, public.
- (xx) Restaurant, including curb service, excluding drive-through windows.
- (xxi) Libraries.
- (xxii) Country club, golf course.
- (xxiii) Movie Theater, performing arts center.
- (xxiv) Communications and broadcast studio.
- (xxv) Schools: technical, trade vocational, business.
- (xxvi) Colleges and universities.
- (xxvii) Services, personal.
- (xxviii) Funeral home.
- (xxix) Furniture and cabinet making shops.
- (xxx) Retail nurseries, greenhouses, farm and garden shops, farmer's market, subject to the provisions of Section 3-11(d) for outdoor sales and storage.
- (xxxi) Construction and/or sales trailer, subject to Section 3-1 (b)(vii).
- (xxxii) Retail sales establishment including the following:
 - (A) Antique store
 - (B) Art gallery and/or framing.
 - (C) Arts and crafts studio and/or retail sales.
 - (D) Bakery.
 - (E) Bookstore.
 - (F) Candy store.

- (G) Clothing and clothing accessories.
- (H) Delicatessen.
- (I) Florist.
- (J) Food store.
- (K) Gift shop and jewelry store.
- (L) Music store.
- (M) Office supplies, stationary store.
- (N) Pharmacy.
- (O) Photographic equipment and/or sales, photographic studio.
- (P) Sporting goods store.
- (Q) Computer sales and service.
- (R) Tack store.
- (S) Pet supplies.
- (T) Furniture and appliance sales and/or service.

(c) **CONDITIONALLY PERMITTED USES:**

The following uses may be permitted within the C-1 district, subject to the Conditional Use Permit process and criteria as established in this Ordinance:

- (i) Art kilns foundries.
- (ii) Convenience stores.
- (iii) Banks and financial institutions with not more than two (2) drive through windows.
- (iv) Auto repair shops without outdoor storage or operations.
- (v) Feed store.
- (vi) Hardware store.
- (vii) Indoor recreation facilities.
- (viii) Retail sales and/or service with outdoor storage and/or display.
- (ix) Microbrewery.
- (x) Manufacturing and assembling, not to exceed six thousand (6,000) square feet.
- (xi) Medical Care Facility, outpatient only.
- (xii) Public utility facilities.
- (xiii) Parking lot, public.
- (xiv) Veterinary Hospital.
- (xv) Wireless Communications Equipment

(d) **LOT REQUIREMENTS:**

- (i) Minimum Size: two thousand five hundred (2,500) square feet.

- (ii) Minimum lot width: twenty-five (25) feet.
- (iii) Yard Requirements:
 - (A) Front Yard: five (5) feet and the front wall of the building shall not vary more than five (5) feet from the average setback of buildings on adjoining properties, provided that any off street parking spaces that may be required or otherwise provided on the same lot as the building shall be set back at least twenty-five (25) feet from the front property line.
 - (B) Side yard: ten (10) feet.
 - (C) Rear yard: thirty-five (35) feet.
- (e) BUILDING HEIGHT:
Thirty-five (35) feet for principal structures, fifteen (15) feet for accessory structures.
- (f) UTILITY REQUIREMENT:
All public utilities located within the C-1 zoning district shall be located underground and shall be designed per the Subdivision Ordinance Article V Required Installation of Public Improvements, Section 5.3 Public Utilities Installation Standards.

3-13 MIXED USE BUSINESS DISTRICT C-2

- (a) PURPOSE:
The purpose of this district is to permit certain commercial, office, retail type mixed uses which do not in any way detract from the residential desirability of the Lovettsville Community. Properties in the Mixed Use District differ from a property that is zoned as a Town Center Planned Development and is smaller in size and scale. All properties in the Mixed Use Business District shall be subject to the following standards:
- (b) PERMITTED USES:
 - (i) Auto parts.
 - (ii) Electric or plumbing supply store, without outdoor storage and/or display.
 - (iii) Emergency care facility.
 - (iv) Lumber and/or building material sales without outdoor storage and/or display.
 - (v) Mixed commercial use dwellings.
 - (vi) Child Care Center, day care centers or nursery schools subject to Section 3-1(b) (iii).
 - (vii) Bed and Breakfast Inn subject to Section 3-1(b) (ii).
 - (viii) Country inns.
 - (ix) Corporate center.
 - (x) Schools: technical trade, vocational business.

- (xi) Colleges and universities.
- (xii) Dry cleaning, transfer facility only.
- (xiii) Offices, Administrative, Business and Professional.
- (xiv) Offices, Medical and Dental.
- (xv) Technology offices.
- (xvi) Banks and financial institutions without drive-through windows.
- (xvii) Government buildings.
- (xviii) Libraries.
- (xix) Studio space - artist, crafter, writer.
- (xx) Museum, cultural center.
- (xxi) Dance, Music and/or Fitness studio.
- (xxii) Park, public.
- (xxiii) Restaurant, including curbside service, without drive-through windows.
- (xxiv) Country Club, golf course.
- (xxv) Fraternal clubs, lodges, and community buildings for use by nonprofit organizations.
- (xxvi) Movie Theater, performing arts center.
- (xxvii) Communications and broadcast studio.
- (xxviii) Indoor recreation facilities.
- (xxix) Retail nurseries, greenhouses, farm and garden and farmer's market, subject to the provisions of 3-11(d).
- (xxx) Construction and/or sales trailer, subject to Section 3-1 (b)(vii).
- (xxxi) Retail sales establishment including the following:
 - (A) Antique store.
 - (B) Art gallery and/or framing.
 - (C) Arts and crafts studio and/or retail sales.
 - (D) Auto parts.
 - (E) Bakery.
 - (F) Bookstore.
 - (G) Candy store.
 - (H) Clothing and clothing accessories.
 - (I) Delicatessen.
 - (J) Fabric store.
 - (K) Florist.
 - (L) Food store.

- (M) Funeral home.
- (N) Gift shop and jewelry store.
- (O) Hardware store.
- (P) Hobby store.
- (Q) Music store.
- (R) Office supplies, stationary store.
- (S) Pharmacy.
- (T) Photographic equipment and/or sales photographic studio.
- (U) Sporting goods store.
- (V) Computer sales and service.
- (W) Tack store.
- (X) Pet supplies, Feed store.
- (Y) Furniture and appliance sales and/or service.
- (Z) Furniture and cabinet making shops.

(c) **CONDITIONALLY PERMITTED USES:**

The following uses may be permitted within the C-2 district, Conditional Use Permit process and criteria as established in this Ordinance.

- (i) Art kilns foundries.
- (ii) Convenience stores.
- (iii) Banks and financial institutions with not more than two (2) drive through windows.
- (iv) Auto repair shops.
- (v) Retail sales and/or service with outdoor storage and/or display.
- (vi) Microbrewery.
- (vii) Veterinary Hospital.
- (viii) Wireless Communications Equipment
- (ix) Contractor office in a permanent building with indoor and outdoor storage of related equipment, materials and vehicles.

(d) **LOT REQUIREMENTS:**

- (i) Minimum Size: six thousand (6,000) square feet.
- (ii) Minimum lot width: fifty (50) feet.
- (iii) Yard Requirements:
 - (A) Front Yard twenty-five (25) for lots fronting Berlin Pike; fifteen (15) feet for all other lots.
 - (B) Side yard: ten (10) feet.
 - (C) Rear yard: thirty-five (35) feet.

- (e) **BUILDING HEIGHT:**
Thirty-five (35) feet for principal structures, fifteen (15) feet for accessory structures.
- (f) **UTILITY REQUIREMENT:**
All public utilities located within the C-2 zoning district shall be located underground and shall be designed per the Subdivision Ordinance Article V Required Installation of Public Improvements, Section 5.3 Public Utilities Installation Standards.

3-14 LIGHT INDUSTRIAL DISTRICT I-1

- (a) **PURPOSE:**
The purpose of this district is to permit certain commercial and industrial uses which do not in any way detract from the residential desirability of the Lovettsville community. All properties within the light industrial Zoning District shall be subject to the following standards:
- (b) **LIGHTING REQUIREMENTS:**
 - (i) No canopy or roof fascia of any size or dimension shall be constructed reconstructed, or altered in such manner as to have internal lighting of any kind.
 - (ii) All site lighting, if any, shall utilize fully shielded cut-off fixtures and be designed and located so as to prohibit glare onto adjacent properties.
- (c) **HOURS OF OPERATION:**
Any business located within one hundred (100) feet of the nearest property line of a residential use, located within a residential district, shall close to the public no later than 11:00 p.m. each day and shall not reopen earlier than 7:00 a.m.
- (d) **STORAGE OF GOODS AND MATERIALS:**
All exterior storage areas of goods and materials where permitted, shall be screened with a fence that is the same height as the material being stored. Exterior storage areas shall be setback a minimum of ten (10) feet from side and rear property lines. Exterior storage of goods and materials shall not be permitted within required front yards. No storage area or its associated fence shall be located in any yard in which a berm is required. Type A landscape buffering shall be provided adjacent to exterior storage areas and shall comply with the landscaping requirements contained in Article 6.
- (e) **STORAGE OF HAZARDOUS MATERIALS:**
Businesses located within the light industrial zoning district shall notify the Town of hazardous materials or chemicals of materials stored on site in excess of threshold levels established by Superfund Amendment and Reauthorization Act (SARA) Title 111.
- (f) **PERMITTED USES:**
 - (i) Artist galleries and studios.

- (ii) Building materials sale.
- (iii) Business incubator centers.
- (iv) Pub, lodges and recreation facilities for use by non-profit organizations.
- (v) Contractors offices, including contractors in specialized trades, without storage yards.
- (vi) Dance, Music and/or fitness studio.
- (vii) Medical clinics.
- (viii) Publishing and printing establishments.
- (ix) Repair shops without outdoor storage.
- (x) Restaurants and catering services without drive through windows.
- (xi) Schools: Technical, trade, vocational or business.
- (xii) Light vehicle repair shops, without outdoor storage or operations.
- (xiii) Furniture and cabinet making shops with no construction or fabrication, storage or display of goods outside fully-enclosed building.
- (xiv) Retail nurseries, greenhouses, farm and garden, and farmer's market.
- (xv) Manufacturing, processing, creating, repairing, renovating painting, cleaning, assembling of goods, merchandise and equipment with no storage or display of goods outside fully-enclosed building.
- (xvi) Blacksmith shop, welding or machine shops excluding presses exceeding forty (40) ton rated capacity and drop hammers.
- (xvii) Construction and/or sales trailer, subject to Section 3-1 (b)(vii).
- (xviii) Contractor office in a permanent building with indoor and outdoor storage of related equipment, materials and vehicles.

(g) **CONDITIONALLY PERMITTED USES:**

The following uses may be permitted within the I-1 district, subject to the Conditional Use Permit process and criteria as established in this Ordinance.

- (i) Feed and seed store.
- (ii) Recreation facilities, commercial.
- (iii) Retail sales and/or service with outdoor storage and/or display.
- (iv) Office.
- (v) Religious facilities.
- (vi) Convention and meeting facilities.
- (vii) Manufacturing, processing, creating, repairing, renovating painting, cleaning, assembling of goods, merchandise and equipment with no storage or display of goods outside fully-enclosed building.
- (viii) Veterinary Hospital.
- (ix) Wireless Communications Equipment

- (h) LOT REQUIREMENTS:
 - (i) Minimum Size: ten thousand (10,000) square feet.
 - (ii) Minimum lot width: eighty (80) feet.
 - (iii) Yard Requirements:
 - (A) Front Yard: twenty-five (25).
 - (B) Side yard: ten (10) feet.
 - (C) Rear yard: forty (40) feet minimum setback.
 - (D) Buffer yard: where adjacent to land zoned in an "R" category a Type C buffer on a four (4) foot high berm that allows through trail access. Trail access through or over the berm shall be subject to the recommendation of the Zoning Administrator and/or in accord with any applicable Town Plan development or land use policies.
- (i) BUILDING STANDARDS:
 - (i) Height: thirty-five (35) feet for principal structures, fifteen (15) feet for accessory structures.
 - (ii) Size: any structure over 10,000 gross square feet requires a conditional use permit.
- (j) DESIGN STANDARDS:
 - (i) Buildings shall be oriented to public streets and parking located in the rear of buildings in accordance with Main Street concepts. Pedestrian connections shall be provided to adjacent properties.
 - (ii) The facade of any building with a footprint of over 2,500 square feet shall be staggered.
 - (iii) Four-sided, color architectural elevations of all buildings shall be provided for development requiring a rezoning or conditional use permit.
- (k) UTILITY REQUIREMENT:

All public utilities located within the I-1 zoning district shall be located underground and shall be designed per the Subdivision Ordinance Article V Required Installation of Public Improvements, Section 5.3 Public Utilities Installation Standards.

3-15 DATE ARTICLE LAST AMENDED

May 13, 2010

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GENERAL REGULATIONS

4-1 TOWN PROPERTY EXEMPT UNLESS EXPRESSLY INCLUDED

Except as otherwise specifically provided, the following general regulations shall apply to privately owned properties in all zoning districts. Public properties owned by the Town shall not be governed by these regulations, except as expressly otherwise provided, and shall only be regulated by provisions of the Code of Virginia, or other applicable authority in order to further the health, safety, order, prosperity, conservation of natural resources and general welfare of the public.

4-2 WIDENING OF HIGHWAYS AND STREETS

Whenever there are plans in existence, approved by either the Virginia Department of Transportation or by the Town Council for the widening of any streets or highway, the Planning Commission may recommend dedication of additional land for the street or highway right-of-way and/or front yard setbacks for any new construction or for any structures altered or remodeled adjacent to the future planned right-of-way in order to preserve and protect the right-of-way for such proposed highway widening.

4-3 MINIMUM OFF-STREET PARKING

(a) MINIMUM OFF-STREET PARKING REQUIREMENTS

Any use which is established, expanded or changed shall be required to provide off-street parking areas as specified in this ordinance.

- i. **Animal Hospital, Veterinarian, Grooming Facility or Kennel:** 1 space per 400 SF of GFA
- ii. **Auditoriums, Arenas, Theaters, or Stadiums:** 1 space for every 4 people based on the maximum occupant load.
- iii. **Automobile Repair Garage:** 4 spaces per service bay plus 1 space per employee
- iv. **Automobile Service Station:** 2 spaces per service bay, 1 space per 6 fuel pumps and 1 space for each employee
- v. **Bed & Breakfast:** 2 spaces plus 1 space per guest room
- vi. **Corporate Retreat:** 1 per lodging room plus 1 per employee plus such spaces as are required for affiliation facilities
- vii. **Colleges, Universities, or Technical Schools:** 1 space per 1.67 students based on the maximum occupant load
- viii. **Country Inn, Motel or Hotel:** 1 space per guest room, plus 1 space per 2 employees, plus such spaces as are required for affiliation facilities

- ix. **Dry Cleaners or Tailoring Shops:** 1 space per 500 SF of GFA, plus 1 space per employee
- x. **Establishments For Sale and Consumption on the Premises of Beverages, Food, or Refreshments:** 1 space for every 4 people based on the maximum occupant load; plus 1 space per 300 SF of outdoor seating
- xi. **Farm Stores, Garden Shops or Retail Greenhouses:** 1 space per 400 SF of GFA
- xii. **Financial Institution or Bank:** 1 space per 300 SF of GFA
- xiii. **Funeral Homes or Mortuaries:** 1 space for every 4 seats in chapels or parlors with fixed seats, or 1 space for each 100 SF of GFA for assembly rooms without fixed seats for services, plus 1 space for employee
- xiv. **Libraries, Art Galleries or Museums:** 10 spaces plus 1 space per each 300 SF of GFA of space over 1,000 square feet
- xv. **Manufacturing, Processing, Creating, Repairing, Cleaning, Assembling of Goods, Merchandise and Equipment:** 1 space per 400 SF of GFA
- xvi. **Medical or Dental office:** 1 space per 300 SF of GFA
- xvii. **Motor Vehicle Sales:** 1 space per 500 SF of enclosed sales area, plus 3 spaces per service bay per employee plus 1 space per 2500 of open sales area
- xviii. **Nursery School or Day Care:** 1 space per employee plus 1 per 200 SF of GFA
- xix. **Nursing Home, or Extended Care Facility:** 1 space per 4 beds and 1 space per attending employee(s)
- xx. **Office (Professional, General, Ancillary):** 1 space for each 200 SF of GFA
- xxi. **Personal Services:** 1 per 200 SF of GFA or 2 spaces per service chair (whichever is greater)
- xxii. **Place of Worship:** 1 space for every 4 people based on the maximum occupant load.
- xxiii. **Commercial Recreational Facility, Dance Studio or Fitness Studio:** 1 space per 150 SF of GFA

xxiv. **Residential Uses, Multi Family Dwelling**

- i. **Efficiency and One Bedroom Units:** 1.5 spaces per dwelling unit
- ii. **Two Bedroom Units:** 2 spaces per dwelling unit
- iii. **Units with More Than Two Bedrooms:** 2.5 spaces per dwelling unit
- iv. **Congregate Housing:** 1 space per 4 dwelling units plus 1 space per employee for day shift

xxv. **Residential Uses, Single Family Dwelling**

- i. **Single Family Detached, Semi-Detached or Attached Dwelling Units:**
2 Spaces Per Dwelling Unit

xxvi. **Restaurant or Eating Establishment, Carry Out Only, with No Seating Facilities:** 1 space per 100 SF of GFA

xxvii. **Restaurant or Eating Establishment, with Seating Facilities:** 1 space for every 4 people based on the maximum occupant load; plus 1 space per 300 SF of outdoor seating

xxviii. **Sales and Rental of Goods, Merchandise and Equipment:** 1 space per 200 SF of enclosed sales area, for the first 10,000 square feet, plus 1 space per 600 SF of open outdoor sales or outdoor display area; Add 4 spaces for each additional 1,000 SF of enclosed sales area.

xxix. **Schools, Elementary:** 1 space per 25 classroom seats based on the maximum occupant load, plus 10 reserved (visitor) parking spaces.

xxx. **Schools, Middle:** 1 space per 10 classroom seats based on the maximum occupant load, plus 15 spaces reserved (visitor) parking spaces.

xxxi. **Schools, High** 1 space per 2.5 classroom seats based on the maximum occupant load, plus 20 spaces reserved (visitor) parking spaces.

xxxii. **Self-Storage Facility:** 2 spaces for the office plus 1 per 50 storage units

xxxiii. **Social Clubs, Fraternal Clubs, or Lodges:** 1 space per each 4 persons of the maximum occupant load of the building

- xxxiv. **Studio Space or Workshop for Artist, Crafter or Designer:** 1 space per employee on main shift, with no retail sales
- xxxv. **Warehouse:** 1 space per 1,000 SF of GFA or 1 space per employee of main shift, whichever is greater.

b) **GENERAL STANDARDS FOR OFF-STREET PARKING REQUIREMENTS**

- i. The Town recognizes that the parking requirements listed in 4-3 (a) cannot and will not cover every possible situation that may arise. Therefore, the parking space requirements, for a use not specifically listed in 4-3 (a) shall be the same as for a listed use of similar characteristics of parking demand generation, as determined by the Zoning Administrator.
- ii. If there are no similar characteristics of parking demands, the Zoning Administrator shall use the formula of one parking space for each 200 square feet of business floor space in the building or 1 per 4 persons of the rated capacity of the building, whichever is greater.
- iii. When building alterations are to be made, or an application for a conversion of use permit is submitted, that may produce parking demand in excess of available spaces, the Zoning Administrator shall require a sketch plan and other written documentation of the change to guarantee adequate parking is provided or will be expanded to meet the Zoning Ordinance.
- iv. The parking requirements above are in addition to space for storage of automobiles, trucks, mobile homes, campers, recreation vehicles, or other similar vehicles used or offered for sale in connection with a particular use.
- v. The parking requirements in this article do not limit special requirements which may be imposed by approval of a conditional use permit.
- vi. Where fractional spaces result, the parking spaces required shall be construed to be the next highest whole number.
- vii. Vehicles being parked within required parking lots solely for advertising purposes are prohibited; this does not include service vehicles or company vehicles ancillary to the business use on the property.

- viii. Any area designated as required off-street parking shall not be changed to another use unless equal facilities meeting the standards of this article are provided elsewhere or the parking requirements of the site change.
- ix. All non-residential uses shall provide handicapped accessible parking in accordance with the latest edition of the International Building Code (IBC) and the most current Americans with Disabilities Act Accessibility Guidelines (ADAAG). Such spaces shall be considered part of, rather than, in addition to the number of required spaces.
- x. The Town Council may restrict the maximum number of parking spaces provided for a use or combination of users where the numbers of spaces required by this section are determined by the Council to be excessive.

(c) **PARKING SPACE DIMENSIONS**

- (i) The following table provides the minimum size requirements for automobile parking spaces.

Table 4-1 Minimum Size Requirements for Parking Spaces		
Parking Options	Length	Width
Standard, Head-in (Diagonal or Perpendicular)	18 ft	9 ft
Parallel Spaces	8 ft	22 ft
Stacking Spaces	8 ft	18 ft
Handicapped Parking	Per IBC Standards	

(d) **PARKING AISLE AND DRIVEWAY WIDTHS**

Parking lot aisle and driveway widths shall conform to the following table, which varies the width requirement according to the angle of parking.

TABLE 4-2 PARKING ANGLE AND DRIVEWAY WIDTHS					
	Parking Angle (Degrees)				
Aisle Width	0	30	45	60	90
	Driveway Width				
One-way traffic	15 ft	15 ft	15 ft	18 ft	22 ft
Two-way traffic	19 ft	20 ft	21 ft	22 ft	22 ft

(e) LOCATION AND USE OF SPACES

All off-street parking spaces shall be located on-site or within three hundred (300) feet of the lot containing the structure or use to which they are accessory. A recorded easement or agreement shall be provided demonstrating that permission for off-site parking has been granted by the owner of the off-site parking area. No off-street parking for a structure or use permitted only in the Town Center Core, Town Center Fringe, C-1, C-2 or I-1 districts shall be located in the Town Center Residential Area or within a residential district except as permitted by Section 4.2(f).

(f) JOINT USE OF OFF-STREET PARKING SPACES

- (i) A single parking area may contain required spaces for several different uses, but except as otherwise provided in this section, the required spaces assigned to one use may not be credited to any other use.
- (ii) Two or more buildings or uses on the same lot or adjacent lots may collectively provide the required off-street parking, if authorized by the Town Council. The Town Council may allow a reduction in the aggregate number of required parking spaces of up to 25 percent. A signed Parking Agreement from the property owners is required and must clearly indicate the provisions of the agreement as well as a length of applicability. In considering a request for shared parking, the Planning Commission shall determine whether:
 - a) Peak usage will occur at different periods of the day;
 - b) Patrons are likely to visit two or more uses during one trip, as reasonably determined by the Town Council;
 - c) The shared parking is conveniently located in proximity to all the buildings or uses being served; and
 - d) The location of the shared parking in relation to the buildings or uses will not create pedestrian safety hazards due to vehicular/pedestrian conflicts or physical barriers.

(g) GENERAL DESIGN ARRANGEMENTS

- (i) Parking areas shall be designed so that, without resorting to extraordinary movements, vehicles may exit such areas without having to back into a public street. All non-through areas, including alleys that exceed two hundred (200) feet in length shall be provided with a turn-around that accommodates an AASHTO SU-30 vehicle (e.g., single-unit delivery trucks, cargo vans, and mini-buses that do not exceed thirty (30) feet in length). This requirement does not apply to driveways serving not more than two (2) dwelling units.
- (ii) Parking areas shall be designed to provide access for sanitation, emergency and other public service vehicles without requiring backing

unreasonable distances or making other dangerous or hazardous turning movements.

- (iii) Parking areas shall be designed so that parked vehicles cannot extend beyond the perimeter of such areas onto adjacent properties or public rights-of-way.
- (iv) Parking circulation areas shall be designed so that vehicles can proceed safely without posing a danger to pedestrians or other vehicles and without interfering with parking areas.
- (v) Driveways in residential areas shall be located a minimum of five feet from any property line.
- (vi) No parking for multi-family dwellings shall be located within any required yard, buffer yard or setback. Parking spaces for multi-family dwellings shall not be less than ten (10) feet from any residential structure.
- (vii) Except as otherwise required in this ordinance, parking for commercial uses shall be:
 - (A) Located behind the building setback line or ten (10) feet from the ultimate street of right-of-way, whichever is greater. Parking areas and access ways shall not cover more than thirty percent (30%) of the front yard actually provided.
 - (B) Setback a minimum of eight (8) feet from all buildings.
 - (C) Set back a minimum of five (5) feet from property lines, except that parking shared by uses located on two (2) different lots may extend to and over the boundary lines if the lots it serves, provided that other required setbacks are met.
 - (D) Located outside of any required front yard setback or buffer yard.
- (viii) Parking for commercial uses shall be generally located to the rear or side of the building which they are designed to serve. If located at the side, screening shall be provided at the lot line by landscaping or decorative walls or fences to a minimum height of three (3) feet.
- (ix) Common parking areas and/or access ways shall be permitted and encouraged for commercial uses.
- (x) All retaining walls, screening, landscaping and building walls shall be protected from vehicle contact.
- (xi) The minimum radius for a curb return in parking areas shall be two and one-half (2-1/2) feet.

(h) **LOADING AND UNLOADING FOR COMMERCIAL AREAS**

- (i) Whenever the normal operation of any development requires that goods, merchandise or equipment be routinely delivered to or shipped from that development, a sufficient off-street loading area shall be provided in accordance with this section to accommodate the delivery or shipment operations in a safe and convenient manner.

- (ii) The off-street loading areas shall be of sufficient size to accommodate the number and types of vehicles that are likely to use the area, given the nature of the proposed development. The following table indicates the number of spaces that are generally assumed to satisfy the standards of this section. However, the commission may require more or fewer spaces if reasonably necessary to satisfy these standards.

TABLE 4-4 COMMERCIAL LOADING SPACES	
Gross Leasable Floor Area (SF)	Number of Loading Spaces
1,000-19,999	1
20,000-79,999	2
80,000-149,000	3

- (iii) A standard loading space shall be at least fifteen (15) feet by thirty (30) feet with a minimum vertical clearance of fifteen (15) feet.
- (iv) Off-street loading areas shall be located and designed so that the vehicles intended to use them can (i) maneuver safely and conveniently to and from a public right-of-way, and (ii) complete the loading and unloading operations without obstruction or interfering with any public right-of-way or any parking spaces or parking lot aisle.
- (v) No off-street loading area shall be used to satisfy the requirements for off-street parking, nor shall any portion of any off-street parking area be used to satisfy the area requirements for loading and unloading facilities.
- (vi) The Planning Commission may waive the loading requirements in the Town Center Core, Town Center Fringe, C-1, C-2 and I-1 districts when a determination has been made that the proposed use can be adequately served by an existing off-street loading area or where provision of a loading area is not feasible because of the location of existing buildings and structures.
- (vii) Required off-street loading spaces may be jointly provided for two (2) or more uses subject to the approval of the Council where adjacent uses can demonstrate that they can be adequately served by a shared loading facility.

(i) **SURFACE REQUIREMENTS**

These requirements are applicable to all parking lots created after the date of adoption of this section and existing parking lots where a change in use is proposed or the existing lot is proposed to be modified or expanded.

- (i) All off-street parking and loading areas containing six (6) or more parking spaces, except those serving single family detached dwellings, including circulation aisles and entrances, shall be paved with asphalt, concrete or other material that will provide equivalent protection against potholes, erosion and dust. The Zoning Administrator may approve the use of alternate paving materials.

- (ii) The paving requirements of this subsection may be waved by the Town Council for proposed parking lots of six (6) to twenty (20) spaces, provided a waiver request is presented in writing to the Council and provided the council finds that the character of the property or adjacent properties would be adversely affected by a paved lot.
- (iii) All off-street parking and loading areas shall be appropriately marked with painted lines or other markings. Signs and/or pavement markings shall be used to identify designated handicapped spaces and loading areas. Adequate signs and/or pavement markings shall be provided to ensure safe movement of traffic through the parking lot.
- (iv) All handicapped parking spaces shall be clearly identified by the placement of signs containing the words "RESERVED PARKING" and a handicapped logo. These signs are to be placed at a minimum height of four (4) feet and shall have a minimum of one and a half (1-1/2) square feet.
- (v) All off-street parking and loading areas shall be properly maintained. Specifically, all off-street parking and loading areas shall be kept in good condition (for example, free from potholes and all lines and marking shall be kept clearly visible).

4-4 OFF-STREET LOADING REQUIREMENTS

On the same premises with every building, structure or part thereof, the use of which customarily involves the receipt or distribution by vehicles of goods, materials, or merchandise, there shall be provided and maintained on the lot adequate space based upon the maximum number of vehicles normally loading or unloading at any one time, for standing, turning, loading, and unloading services in order to avoid interface with public use of the streets and alleys. With the exception of residential uses, at least one (1), but not more than five (5), off-street loading spaces shall be required.

4-5 FENCES

Language that addresses the regulation of fences are provided for in Section 4-7 USES AND STRUCTURES PERMITTED IN REQUIRED YARDS

4-6 VISIBILITY REQUIREMENTS

- (a) At Street Intersections: There shall be an area of unobstructed vision at street intersections. Such area shall be a triangle having sides at least twenty-five (25) feet in length along the lot lines which extend from the point of intersection of the street rights-of way and the hypotenuse shall be the line of sight between the end points. There shall be no planting, fence or other obstruction to vision more than two (2) feet high with this triangle. The above requirement shall be subject to modification to the current standards of the Virginia Department of Transportation.
- (b) At Driveway Intersection With Streets: The apex of the triangle is at the intersection of the street right-of-way line with the edge of the driving surface of the driveway nearest to the approaching traffic lane, the side of the triangle coterminous with the street right-of-way line is twenty-five (25) feet in length, the side of the triangle coterminous with said edge of driveway is twenty (20) feet in length, and the base runs through the lot.

- (c) Exceptions: Where terrain features present substantial obstacles to provision and maintenance of such visibility triangles, the Zoning Administrator may permit the provision and maintenance of lesser visibility clearance but such clearance shall be the maximum which is reasonably practicable to provide and maintain.

4-7 USES AND STRUCTURES PERMITTED IN REQUIRED YARDS

Structures, including walls, accessory structures, decks, porches, overhangs, architectural features, balconies, air conditioners, heat pumps, satellite dishes, except for fences, shall not be located on or over any type of easement, whether in public or private or homeowners association ownership, except as provided by the express terms of the instrument creating the easement or approved in writing by the party that holds the easement.

A property owner is responsible for repairing or reinstalling a fence in an easement when the fence is damaged, removed or destroyed by the party holding the easement, unless the express terms of the instrument creating the easement or approved in writing by the party that holds the easement states otherwise.

No structure shall be allowed in any yard of any district that does not comply with the Virginia Department of Transportation (VDOT) sight distance standards, regulations or requirements and visibility requirements, as contained in Section 4-6.

- (a) Fences and Walls. Fences and walls in yards are subject to the following stipulations:
 - (i) Front Yard. Fences and walls shall not exceed three (3) feet in height.
 - (ii) Side Yards. Fences and walls in residential districts shall not exceed six (6) feet in height. Fences and walls in non-residential districts shall not exceed eight (8) feet in height.”
 - (iii) Rear Yards. Fences and walls located on regular lots, other than “through lots”, in residential districts shall not exceed six (6) feet in height. For residential “through lots” where the rear yard is adjacent to a public street, a wall or fence may not exceed three (3) feet in height at the public right-of-way and may increase in height by one-half (0.5) foot increments for every five (5) feet of distance from the right-of-way, not to exceed six (6) feet in height in any case. Fences and walls on non-residential regular, “through lots” or corner lots, may be located within the required rear yard with a height not to exceed eight (8) feet.
 - (iv) When elements such as columns, finials, pillars or posts are part of a wall, they may extend to no more than one (1) foot above the fence itself if these features are no larger than two (2) feet on any one side and such elements are no closer than three (3) feet apart.”
 - (v) Exceptions to Height Limit. Fences in required side and rear yards of public playgrounds, institutions or schools located in residential districts may not exceed eight (8) feet in height. Fences or walls may exceed the height limit where required to comply with screening provisions of this ordinance or the safety standards of other government regulations.

- (vi) Prohibited Fencing Material in Residential Areas. No barbed wire, electrical elements or other hazardous materials, no fragile or unduly flammable materials and no unfinished concrete or cinder block or other similar unfinished materials shall be maintained as a fence or part of a fence or wall in residential district or abutting a residential district or use, except, however, that underground "invisible" fencing shall be permitted.
- (b) Covered entry porches, enclosed or unenclosed, may project into any required yard, provided that no such porch shall project more than three (3) feet into such yard, or may be closer than three (3) feet to any lot line.
- (c) Balconies may project not more than four (4) feet into any required yard other than a front yard, but shall not be closer than three (3) feet to any lot line.
- (d) Architectural features, chimneys, eaves, or the like may project into required side or rear yards not more than thirty six (36) inches, but not closer than three (3) feet to any lot line, and into required front yards not more than three (3) feet.
- (e) Decks require permits and may project into a required side yard provided that the deck is set back from a property boundary no less than the setback allowed for the primary building. A deck may project into a required rear yard provided that the deck is set back from a property boundary no less than five (5) feet. A deck may not project into a front yard, except on a through lot, in which case a deck may project into the front yard opposite the front entrance of the primary building on the lot no less than fifteen (15) feet.
- (f) Air conditioners rated at twenty-four thousand (24,000) BTU or less shall not be so placed hereafter so as to discharge air within five (5) feet of lot lines, and those rated over 24,000 BTU to discharge air within twelve (12) feet of lot lines except where said air conditioners are separated from lot lines either by projections of buildings or by streets, alleys, or permanent open space at least twenty (20) feet in minimum dimensions.
- (g) No portion of any accessory building shall be permitted in any required yard if any utility or drainage easements are adversely affected. Accessory buildings or portions thereof may be erected either to within five (5) feet of adjacent lot lines (if such buildings are separated) or to a common wall, in portions of required yards located as follows:
 - (i) On regular lots, at least sixty (60) feet from street lines at the front of the lot, and at least twenty four (24) feet from any street lines at the side of the lot.
 - (ii) On irregular lots, at least forty (40) feet behind the front line of any building adjacent to the lot line, and at least twenty- five (25) feet from any access easement or street.
- (h) Satellite dishes shall be subject to all regulations, and restrictions pertaining to accessory buildings. They shall require a location permit, and should be adequately screened. Dishes of 24 inches, or less, shall be treated as a television antenna for purposes of height limitations only.

4-8 OUTDOOR SWIMMING POOLS, HOT TUBS AND SPAS

A zoning permit shall be required and granted for the installation or construction of a temporary, permanent, public or private, in-ground or above ground outdoor swimming

pool, hot tub or spa with a water depth of two (2) feet or more in any zoning district, subject to the following conditions:

- (a) In residential districts and the residential portions of districts that allow residential use an outdoor swimming pool, hot tub or spa shall only be located in a rear yard. A swimming pool, hot tub or spa is permitted in a front yard on a through lot only if it is located in the front yard opposite the front entrance of the principle structure on the lot.
- (b) An outdoor swimming pool, hot tub or spa that is not located on a deck in a residential district, or in the residential portion of districts that allow residential use, shall be set back at least ten (10) feet from a property boundary.
- (c) A hot tub or spa that is located on a deck in a residential district, or in the residential portion of districts that allow residential use, shall have the same setback as that allowed for the deck.
- (d) In commercial districts and the light industrial district a swimming pool, hot tub or spa is permitted to be located in a front, side and rear yard. Such facilities shall be set back at least fifty (50) feet from an adjacent residential district or from any district that allows residential use by right. Such facilities shall be set back at least ten (10) feet from any adjacent non-residential district.

4-9 TEMPORARY DWELLINGS

The Zoning Administrator shall accept applications permitting the erection and occupancy of a temporary dwelling during the construction of a dwelling on the same lot and shall refer the applicant for a permit for such temporary dwelling to the Town Council for special exception action. In such cases, the Town Council may specify appropriate conditions and requirements to be applied to the permit, in which event the permit shall be subject to such conditions and requirements. No temporary dwelling permit shall be issued for more than twelve (12) months.

4-10 DRAINAGE

No building shall be erected on any such land and no change shall be made in the existing contours of any land, including any change in the course, width, or elevation of natural or other drainage channel, in any manner that will obstruct, interfere with, or substantially change the drainage from such land to the detriment of neighboring lands. The Town Engineer shall review the plans and make the final determination on this matter.

4-11 EXCEPTIONS TO HEIGHT LIMITATIONS

The maximum height limitations established within this Ordinance shall not apply to the following structures:

- (a) Barns, silos, windmills and related agricultural structures;
- (b) Water towers, fire and observation towers;
- (c) Chimneys, church spires, belfries, clock towers, and governmental monuments;
- (d) Air-conditioning units and related mechanical structures when completely screened from the view of public rights-of-way and adjoining properties, such screening to be an integral architectural design element of the building;

- (e) Parapet walls extending no more than four (4) feet above the maximum height limit;
- (f) Residential antenna attached to the principal structure, not including satellite dish antenna, up to maximum of ten (10) feet above the height of the structure.

4-12 STORAGE OF DISMANTLED OR INOPERABLE VEHICLES

No inoperable vehicle shall be parked on any privately owned property in the Town unless it is enclosed in a building or enclosed on four sides by opaque outdoor fencing or walls that are at least six feet in height for passenger cars in residential districts or eight feet in height for vehicles over 3.5 tons in commercial or industrial districts. An inoperable vehicle may be parked in view from any adjacent property or street for a period of time not exceeding thirty (30) days only if it is covered by a fitted vehicle cover, except as stated in the definition of light vehicle repair use.

4-13 LIMITATIONS ON PARKING OF TRUCKS IN RESIDENTIAL DISTRICTS

No trucks with rated capacity of one and a half (1-1/2) tons or greater, or with a bed the size of seven (7) feet wide, nine (9) feet long, and six (6) feet wide, or greater, shall be parked in any residential district in any location.

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OPEN SPACE AND RECREATION SPACE

5-1 USABLE OPEN SPACE

- (a) Minimum Open Space requirements for each district are found in Article 3 "District Regulations."
- (b) A minimum of fifty percent (50%) of the required open space shall be usable open space.
- (c) Of that fifty percent (50%) required to be usable, such open space shall be located, designed for and capable of supporting recreational activities, including uses such as ball fields, soccer fields or other play fields; multi-purpose courts, tennis courts, basketball courts, and similar facilities; swimming pools, play lots, tot lots and playgrounds; pedestrian and bicycle trails; and similar active and passive recreational uses, including accessory uses thereto. Usable open space shall not include land which constitutes wetlands, storm water management facilities, drainage ways, floodplains and floodways.
- (d) Usable open space means an area that:
 - (i) Is not encumbered with any substantial structure;
 - (ii) Is not devoted to any roadway, parking area or sidewalk;
 - (iii) Is left in its natural or undisturbed state if wooded, except for the development of pedestrian trails;
 - (iv) Is developed for ball fields, picnic areas or other similar facilities or is properly landscaped if not wooded at the time of development;
 - (v) Is capable of being used and enjoyed for the purposes of informal and unstructured recreation and relaxation;
 - (vii) Is legally and practicably accessible to the residents of the development of which it is a part; and
 - (viii) Contains land, no more than twenty-five percent (25%) of which lies in a floodplain or in an area containing slopes fifteen (15%) percent or greater.
 - (ix) This area may include buffers as required in Article 6.

5-2 RECREATION SPACE

- (a) A minimum of one hundred (100) square feet of active recreation space shall be provided for each townhouse and garden apartment dwelling unit. The following are illustrative of the facilities that shall be deemed to serve active recreational needs: tennis courts, swimming pools, sauna and exercise rooms, meeting or activity rooms within clubhouses, basketball courts, swings, slides, and other play apparatus.
- (b) Each development shall satisfy its active recreation requirement by installing the types of recreational facilities most likely to be suited to and used by the residents in that development. At least fifteen percent (15%) of the active recreation space shall consist of tot lots.
- (c) Each active recreation area shall be centrally located and easily and safely accessible to the residents of the development.

- (d) Each active recreation area shall be constructed on land that is relatively flat, dry and capable of serving the purposes by this Article.

5-3 OWNERSHIP AND MAINTENANCE OF RECREATION AREAS AND OPEN SPACE

All common open space and improvements, including all private roadways, driveways, parking lots, uses, facilities and buildings provided in a residential development shall be established and maintained in accordance with the following requirements:

- (a) The Developer or Owner shall organize and incorporate property owner associations to ensure the preservation and maintenance of common open space and improvements.
- (b) Organizations established for this purpose shall meet the following requirements:
 - (i) Organizations shall be established and incorporated prior to the sale of any lots.
 - (ii) All persons having ownership of property within the development shall have membership rights in those organizations.
 - (iii) Organizations shall own and manage all common open space and improvements.
 - (iv) All lands and improvements shall be described as to locations, size, use and control in the declaration of covenants, conditions and restrictions. This declaration shall set forth the method of assessment for maintenance of common land and improvements. Covenants, conditions and restrictions shall run with the land and be in full force and effect for at least twenty years and shall be automatically extended for successive ten year period unless terminated in accordance with this section.
 - (v) Organizations shall not be dissolved nor shall they dispose of any common open space except to an organization established to own and maintain common open space, to the Town or to another appropriate governmental agency.
- (c) Any undeveloped lots in a residential development shall be maintained by the Developer, Owner, or property owners association. Such lots shall be kept free of unsightly trash, debris, and dangerous materials.
- (d) Any private roadways created in any residential development shall provide guaranteed vehicular and pedestrian access for abutting lot owners and guaranteed access for public vehicles and public service employees.
- (e) The Developer or Owner shall submit with the application for preliminary plat or development plan approval a fiscal plan for a minimum of ten (10) years, including adequate reserve funds, for the continuing preservation and proper maintenance and care of all lands, streets, facilities and uses under the purview of the property owner's organization.

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LANDSCAPING, BUFFERING & SCREENING

6-1 APPLICABILITY

- (a) This article shall apply to all site plans and subdivision application approved after the effective date of this ordinance including those which include the reconstruction and enlargement of existing structures constituting fifty percent (50%) of the floor area or the existing structure. This Article applies to the expansion of any parking lot with five (5) or more parking spaces. This Article shall apply to the construction of any parking lot containing more than five (5) spaces and the construction, widening, extension of any public street.

6-2 PURPOSE AND INTENT

The purpose of this Article is to facilitate the creation of a convenient, attractive and harmonious community to preserve the character of the Town and to preserve and promote the health, safety and general welfare of the public.

6-3 LANDSCAPING PLAN AND MAINTENANCE

- (a) All landscaping required by this Article shall be identified on a Landscaping Plan and reviewed along with other plans by the Town prior to installation. The Town may chose to relax the requirements for landscaping required by this Article based upon a review of the Landscaping Plan by the Zoning Administrator and where such conditions are deemed to warrant such a change. The Planning Commission shall act upon the Zoning Administrators recommendation.
- (b) All landscaping required by this Article shall be installed per the approved Landscaping Plan. All plants and other materials required by the Approved Plan shall be maintained by the property owner in a state of good repair and shall be replaced or repaired promptly as appropriate.

6-4 PARKING LOT LANDSCAPING

- (a) All parking areas with five (5) or more spaces shall provide perimeter parking lot landscaping outside of the parking area of the lot.
- (b) Parking lots adjacent to public streets shall provide a continuous landscape area of not less than ten (10) feet in width located between the parking lot and property line. The landscape area shall be planted at a rate of one (1) tree for every fifty (50) feet of frontage plus three (3) shrubs for every fifty (50) feet of frontage. A minimum of seventy five percent (75%) of the trees provided shall be canopy trees.
- (c) Parking lots adjacent to lands not in the right-of-way of a street shall provide a continuous landscape area five (5) feet in width located between the parking area and the property line. The landscape area shall be planted at a rate of one (1) tree for every fifty (50) feet of frontage plus three (3) shrubs for every fifty (50) feet of frontage. A minimum of seventy five percent (75%) of the trees provided shall be canopy trees.
- (d) All parking lots with ten (10) spaces or more shall provide interior parking lot landscaping. Such landscaping shall be in addition to any planting or landscaping within six (6) feet of a building, required perimeter landscaping and required screening. A minimum landscape area of five percent (5%) of the gross parking lot area shall be provided within the parking area. The gross area of the parking

lot shall include all designated parking spaces and areas designated for ingress and egress. Landscape areas shall have a minimum, dimension of ten (10) feet. Trees shall be provided at the rate of one (1) tree for every ten (10) parking spaces with a minimum of one (1) tree provided.

- (e) Plant materials at entrances shall be located so as to maintain safe sight distances in accordance with VDOT standards.

6-5 BUFFERING AND SCREENING

- (a) Certain uses, when adjoining each other, are incompatible and create conflict which may be reduced or eliminated by appropriate measures. Buffering between incompatible uses minimizes these conflicts and the adverse impact of incompatible development. These provisions are intended to provide adequate buffer areas between incompatible land uses in all zoning districts, except where the incompatibility arises from an existing nonconforming use.
- (b) Buffer yards are to be used for the planting of landscape material. Buffer yards shall not be used for the storage of materials, buildings, parking lots or loading areas for vehicles or equipment. Driveways and entrances connecting adjacent parking lots or developments may interrupt the required buffer yard. Minimal utility crossings shall be permitted within buffer yards.
- (c) Buffer yards may be provided in the area required for setbacks by the zoning district requirements. Where the required buffer yard exceeds the required setback for the zoning district, the required buffer yard shall be provided.
- (d) The buffer area requirements are based on the compatibility between the proposed use and that of the adjoining property Table 6-1 identifies the minimum buffer area required to be provided.

TABLE 6-1, MINIMUM BUFFER AREA REQUIRED								
PROPOSED USE/ DEVELOPMENT	Residential	Single-Family Detached	Single-Family Attached	Multifamily	Institutional (Schools & Churches)	Office	Retail/Commercial	Industrial
RESIDENTIAL								
SINGLE-FAMILY DETACHED			B	B	B	B	C	C
SINGLE-FAMILY ATTACHED		B		B	B	B	C	C
MULTIFAMILY		B	B		B	B	C	C
INSTITUTIONAL (SCHOOLS & CHURCHES)		B	B	B		B	C	C
OFFICE		B	B	B	B		C	C
RETAIL/COMMERCIAL		C	C	C	C	C		C
INDUSTRIAL		C	C	C	C	C	C	

- (e) Plant materials are required per square foot of required buffer area as shown in Table 6-2 for Types A, B and C.

TABLE 6-2, BUFFER AREA WIDTH AND PLANT REQUIREMENTS					
Type	Width	Required Planting			
		Canopy Trees	Understory Trees	Evergreen Trees	Shrubs
A	10'	1/1,000 SF BUFFER	1/500 SF BUFFER		1/500 SF BUFFER
B	25'	1/1,000 SF BUFFER	1/500 SF BUFFER	1/500 SF BUFFER	1/100 SF BUFFER
C	35'	1/1,000 SF BUFFER	1/500 SF BUFFER	1/500 SF BUFFER	1/100 SF BUFFER

- (f) Berms are encouraged within buffer yards. Where the minimum width of buffer area is at least twenty five (25) feet the buffer area may be reduced by five (5) feet with the provision of a berm at least four (4) feet higher than the elevation of the adjacent ground. Slopes on the berm shall not exceed 3:1. Number of required plantings shall be based on the reduced yard area.
- (g) A six (6) foot tall opaque fence (board-on-board) or architectural block wall may be substituted for one third (1/3) of the required buffer yard and the plant material reduced accordingly.
- (h) All loading areas, dumpsters, maintenance areas and equipment and similar areas are to be screened from view from all public streets and adjoining properties.

6-6 TREE CANOPY COVERAGE

- (a) Any project subject to the provisions of this Article shall be subject to tree canopy requirements set out in this section. Tree cover requirements may be met by providing landscaping in the form of residential lot planting, parking lot landscaping, street planting and buffer yard planting. For purposes of tree canopy coverage, the total site area may be reduced by the area to be dedicated for public street purposes.

TABLE 6-3, REQUIRED TREE CANOPY COVER AT TEN YEARS MATURITY	
Development Type	% of Area
Residential Development	15%
Commercial, industrial and institutional development.	10%

- (b) Existing tree cover within any proposed development shall be retained to the greatest extent possible and taken fully into account in the design of the improvements, site grading and calculation of tree canopy requirement. Existing trees used to meet the tree canopy coverage must be at least four-inch caliper, in healthy condition and be protected from all construction activity.
- (c) Where the strict application of the minimum tree canopy requirement would result in an unnecessary or unreasonable hardship for the property owner, the Council may impose conditions to any modification which would assure that the results created by the modification are in accordance with the purpose and intent of this Section.

6-7 STREET TREES

- (a) Canopy and understory trees shall be provided adjacent to right-of-way in a manner that will enhance streets throughout the Town.
- (b) One tree shall be planted for every forty (40) feet of street frontage. The majority of street trees shall be medium or large scale canopy trees to provide shade and visual relief except when overhead utility lines prohibit such trees.

6-8 MINIMUM SPECIFICATION FOR PLANT MATERIALS

- (a) All plants shall be well branched and well formed, sound, vigorous, healthy and free from disease and have a healthy, normal and unbroken root system. All plants shall comply with the American Association of Nurserymen's Standards and conform to the representative species.
- (b) All plant materials installed to meet the requirements of this Ordinance shall meet the following minimum size requirements at the time of planting.

Table 6-4 Minimum Planting Size Requirements

(i)	Street and Canopy Trees	Caliper: two and one-half inches
(ii)	Understory Trees	Height: 6-feet minimum
(iii)	Evergreen Trees	Height: 6-feet minimum
(iv)	Shrubs	Height: 18 inch minimum

- (c) The planting of all trees shall be done in accordance with the standardized landscape specifications jointly adopted by the Virginia Nurserymen's Association, the Virginia Society of Landscape Designers and the Virginia Chapter of the American Society of Landscape Architects.

6-9 PLANT SELECTION GUIDE

- (a) Plant Selection Guide for Buffer areas, Basic Landscaping, Street Planting, and Reforestation areas:

The Plant Selection Guide to be utilized by persons preparing landscape plans for buffer areas, basic landscaping, street planting, and reforestation areas is found in Table 6-7. The following is an explanation of the columns and codes contained therein:

- (i) Tree categories/Tree canopy coverage
- (A) Table 6-5 is divided into groups of trees i.e., large, medium, small, and compact) for, purposes of calculating tree canopy coverage - Trees canopy coverage is determined, by the size of a tree at planting related to the projected size of tree's canopy in square feet after ten (10) years of growth in an urban environment.
- (B) Tables 6-5 and 6-6 provide the square footages to be utilized in tabulating tree canopy coverage and shall be used for meeting the Town's requirements. Tree canopy coverage for deciduous trees is based on the caliper of tree at planting. Evergreen trees are based on height at planting. The minimum planting area for achieving healthy tree growth as well as the projected ten (10) year canopy growth is also included.

TABLE 6-5 10-YEAR TREE CANOPY COVER FOR DECIDUOUS TREES RELATIVE TO CALIPER AT PLANTING			
RECOMMENDED MINIMUM PLANTING AREA			
Tree Category Area	Caliper at Planting (inch)	10-year Canopy Coverage (square feet)	Minimum Planting (square feet)
Large deciduous tree	2 to 2—1/2	200	130
	3 to 3—1/2	250	130
Medium deciduous tree	2 to 2—1/2	150	90
	3 to 3-1/2	115	90
Small deciduous tree	2 to 2—1/2	100	50
	3 to 3—1/2	125	50
Compact deciduous tree	2 to 2—1/2	50	30
	3 to 3 1/2	75	30

TABLE 6-6 10-YEAR TREE CANOPY COVER FOR EVERGREEN TREES RELATIVE TO HEIGHT AT PLANTING	
Height at planting (feet)	10- Year Tree Canopy Coverage (square feet)
6-7	125
7-8	150
9	175

- (b) Table 6-7 provides a listing of the codes found in the Plant Selection Guide (Table 6-7).
- (i) Environmental Tolerances: This column is used to select species that are tolerant of specific environmental factors, both natural and man-made. Eight factors are considered, as follows:
- (A) Restricted root zone: Trees indicated as (RZ) are recommended for areas which are relatively limited in soil volume and surrounded by impervious barriers typical of parking lot islands and planting strips provided between parking bays and between sidewalks and curbs. A larger planting space will result in a more healthy and vigorous tree.
 - (B) Poor soil: Trees indicated as (SL) are recommended for soil conditions which are poor- These trees are noted for their tolerance to a wide range of soils found in an urban environment.

Most trees, however, do not tolerate poor soils. Better soils will result in a more healthy and vigorous tree. Subsoil's used to provide a stable base for sidewalks, parking lots, buildings, etc. and general grading purposes are often found to be inadequate for plant growth. Soil amendments are generally needed.
 - (C) Partial shade: Trees indicated as (PS) are recommended for areas receiving partial amounts of direct sunlight such as on the eastern or western boundary of a structure.
 - (D) Shade Trees indicated as (SH) are recommended for a shaded environment. These trees are noted for their tolerance to shade, but more sun will result in a more healthy and vigorous tree.
 - (E) Air pollution: Trees indicated as (AP) are recommended for areas subject to exhaust emissions as found along a highway or in a parking lot with excessive stop and go traffic. Deciduous trees are more tolerant of air pollution than evergreen trees.
 - (F) Deicing salts: Trees indicated as (IS) are recommended for areas near streets and parking lots where deicing salts containing sodium chloride and/or calcium chloride are used.
 - (G) Wet soil: Trees indicated as (WS) are recommended for areas near waterways, ponds, lakes, and storm water management facilities

- (H) Drought: Trees indicated as (D) are recommended for hot, dry conditions such as along streets, near or in parking lots, and near buildings.
- (ii) Associated Problems: Table 6-8 Codes are used to identify general problems associated with specific tree species. Six problem codes are provided: disease, insect damage, storm and structural damage due to weak wood, production of objectionable fruit, and production of objectionable root systems.
 - (A) Disease Trees indicated as (D) are susceptible to severe stress, disfigurement, or death brought about by disease causing agents which produce symptoms which are not curable or controllable by known or practical methods. Some of these species are susceptible to one or more pathogens.
 - (B) Insect damage trees indicated as (I) are susceptible to damage by insects. Considerable damage such as defoliation and sometimes death can result. Pests causing such damage cannot be effectively controlled without considerable maintenance with pesticides.
 - (C) Storm and structural damage due to weak wood trees indicated as (W) are susceptible to structural failure, such as branches breaking and falling or major portions of the main trunk snapping off during storms. These species should not be planted near buildings.
 - (D) Objectionable fruit trees indicated as (F) produce fruit that is capable of causing damage when falling, is slick or sticky on roads and walkways, attracts pests, produces disagreeable odors, and/or produces prolific seedlings.
 - (E) Objectionable root systems: trees indicated as (R) produce shallow or surface oriented root systems that may heave sidewalks and asphalt surfaces, clog sewer and drainage pipes, or damage foundations if planted too close to buildings.
 - (F) Transplanting difficulty: Trees indicated as (T) produce deep root systems which are difficult to retain in transplanting.

TABLE 6-7 PLANT SELECTION GUIDE CODES	
Uses	Code
Interior parking lot planting areas	P
Buffer areas	B
Street planting areas	S
Reforestation areas	RF
Areas near overhead utilities	U
Environmental Tolerances	
Restricted Root Zone	RZ
Poor soils	SL
Partial shade	PS
Shade	SH
Air pollution	AP
Deicing salts	IS
Wet soils	WS
Drought	DR
Associated Problems	
Disease	D
Insect damage	I
Weak wood	W
Objectionable fruit	F
Objectionable root systems	R
Transplanting difficulty	T

- (c) Plant Selection Guide – provides the guidelines for selecting plants, including information on uses, environmental tolerances and associated problems.
- (i) Genus and species: The first column on Table 6-8 contains the Latin name for the plant, sometimes followed by a specific cultivar name.
 - (ii) Common name: The second column on Table 6-8 contains the name of the plant commonly used in the Mid-Atlantic region of the United States.
 - (iii) Planting location/situation codes: This column in Table 6-8 is used to select a species which will thrive and exhibit desirable characteristics suitable to the demands of a particular environment. Five situations are considered in Table 6-8 as follows:

- (A) Interior parking lot planting areas: Trees indicated as (P) tolerate poor soils drought, reflected heat, restricted root zones. Desirable branching habit is also considered.
 - (B) Buffer areas: Trees indicated as (B) provide screening of undesirable views. Both deciduous and evergreen species are listed, but the use of more evergreens will provide the most effective buffer.
 - (C) Street planting areas: Trees indicated as (CS) are appropriate for planting within street rights-of-way have been selected based on their form and potential spread.
 - (D) Reforestation areas: Trees indicated as (RF) are appropriate for planting in areas which are to be reforested.
 - (E) Areas near or under overhead utilities: Trees indicated as (U) are appropriate for planting near or under overhead utilities and have been selected based on their ultimate height and spread. Use of the selected species can prevent disfigurement and associated structural and health problems caused by periodic topping or pruning of trees near power lines.
- (d) Plant Selection Guide for Storm Water Management Facilities:
- Table 6-9 contains plants which are suitable for planting in storm water management facilities. Like Table I, Genus and species as well as common names are listed followed by columns of three variables – wildlife value, adaptation to wetland growing condition, and tolerance to periodic flooding. The variables are provided to assist persons designing landscapes for storm water management facilities.
- (i) Table 6-9 is divided into groups of trees (i.e. large, medium, and small) for purposes of calculating tree canopy coverage.
 - (ii) Wildlife values – This column of Table 6-9 provides wildlife values, given as high, moderate, and low and are intended to assist those designing storm water facilities for promoting or managing wildlife.
 - (iii) Wetland status – This column in Table 6-9 provides indicators taken from the National List of Plant Species That Occur in Wetlands: Northeast (Region I) USDI/Fish and Wildlife Service, 1998 or most recent edition. These indicators may be used as a guide to the adaptability of various species to various prevailing soil moisture conditions. The categories are defined as follows:
 - (A) Obligate Wetland (OBL): Occur almost always (estimated at ninety percent (90%) probability) under natural conditions in wetlands.
 - (B) Faculative Wetland (FACW): Usually occur in wetland (estimated probability thirty four percent (34%) to sixty seven percent (67%)), but occasionally found in non-wetland areas.
 - (C) Faculative Upland (FAUP): Usually occur in non-wetlands (estimated probability sixty seven percent (67%) to ninety nine (99%) percent), but occasionally found in wetlands (estimated probability one percent (1%) to thirty three percent (33%)).

- (D) Obligate Upland (UPL): Occur in wetlands in another region but occur almost always (estimated probability greater than ninety nine percent (99%)) under natural conditions in non-wetlands in this region.
- (E) A plus or minus sign indicated if the species is usually found in the wetter (+) or drier (-) end of its category.
- (iv) Flood tolerance – This column in Table 6-9 refers to the ability of a plant to survive periodic flooding. While this is shown as a “yes” or “no”, these are not absolutes. Actual plant survival will also depend on such variables as the amount of soil loss around roots and the amount of silt deposited over the root zone during the storm event.

6-10 APPROVAL OF ALTERNATIVES

- (a) The Council recognizes that the landscaping, buffering and screening requirements of this article cannot address every situation because of the wide variety of potential developments and the relationships between them. Subject to a recommendation of the Zoning Administrator, the Planning Commission may approve alternate proposals that deviate from the requirements of this section whenever it concludes that the proposal meets or exceeds the standards of this article.
- (b) Whenever the Planning Commission allows or requires a deviation from the requirements of this article, the alternate standards shall be noted on the Zoning Permit along with the reasons for allowing or requiring the deviation.

6-11 MONITORING AND ENFORCEMENT

- (a) The enforcement of the provisions of this section shall be the responsibility of the Administrator. Any violation of this section is a civil violation as described in Section 10-9 (d) of this Ordinance.
- (b) No occupancy permit shall be signed until the trees, plants, and other screening materials required by this article have been installed.
- (c) If the weather prohibits the installation of the required tree, plant or screening materials at the time of occupancy, the applicant may at his option, post a cash bond for the installation of the required plants and installation costs. The bond shall be supported by an estimate by a landscape contractor of the cost of installing such landscaping and a letter expressing the intent of the contractor to install the required plants. If the required landscaping is not installed within six (6) months, the bond shall be forfeited to the Town to use for planting of the required materials.
- (d) The property owner shall be responsible for the maintenance, repair and replacement of all landscape materials, fences and walls required by this section.
- (e) All landscape materials shall be kept in healthy condition free of disease and infestation. All fences and walls shall be maintained in a safe and attractive condition.
- (f) The property owner shall, upon written notice of the Administrator, repair or replace any landscape materials, fencing or walls not meeting the requirements of this Ordinance within 30 days.

TABLE 6-8 PLANT SELECTION GUIDE FOR BUFFER AREAS, BASIC LANDSCAPING, STREET PLANTING, AND REFORESTATION AREAS

Large Deciduous Trees		
Botanical Name	Common Name	Codes (See Table 6-7)
<i>Acer rubrum</i>	Red Maple	P, B, S, RF, PS, WS
<i>Acer saccharum</i>	Sugar Maple	B, RF, PS
<i>Celtis laevagata</i>	Hackberry	B, RF, SL, WS, DR
<i>Fagus grandiflora</i>	American Beech	B, RF, PS, R
<i>Fagus sylvatica</i>	European Beech	B, PS, R
<i>Fraxinus Americana</i> 'Autumn Purple'	White Ash	B, S, RF, IS, WS
<i>Fraxinus pennsylvanica</i> 'Marshall's Seedless' 'Patmore' 'Summit'	Green Ash	P, B, RZ, SL, IS, WS, D, I, W, P, B, S, RF, RZ, SL, WS, D, P, B, S, RF, SL, WS, D
<i>Ginkgo biloba</i> 'Princeton Sentry'	Male Ginkgo	S, B, AP, DR, F (FEMALE)
<i>Juglans nigra</i>	Black Walnut	B, RF, WS
<i>Liquidambar styraciflus</i>	Sweetgum	B, RF, SL, WS, DR, F
<i>Liriodendron tulipifera</i>	Tulip Poplar	B, RF, AP, WS, W
<i>Magnolia accuminata</i>	Cucumber Magnolia	B, RF, WS
<i>Phellodendron amursense</i>	Corktree	P, B, AP, DR
<i>Platanus acerifolia</i>	London Planetree	P, B, S, R, SL, AP, DR
<i>Platanus occidentalis</i>	Sycamore	RF, WS, R, D, I
<i>Quercus accutissima</i>	Sawtooth Oak	P, B, S, R, SL, DR
<i>Quercus bicolor</i>	Swamp White Oak	B, S, RF, SL, WS, DR, T
<i>Quercus coccinea</i>	Scarlet Oak	B, S, RF, SL, DR
<i>Quercus falcate</i>	Southern Red Oak	B, S, RF, SL, DR, T
<i>Quercus palustris</i>	Pin Oak	P, B, S, RF, SL, WS, DR
<i>Quercus phellos</i>	Willow Oak	P, B, S, RF, SL, WS, DR
<i>Quercus rubra borealis</i>	Northern Red Oak	B, S, RF, SL, DR, T
<i>Tilia Americana</i> 'Redmond' 'Legend'	American Linden	B, RF
<i>Tilia cordata</i> 'Greenspie'	Littleleaf Linden	P, B, S
<i>Ulmus hollandica</i>	Groenveldt Elm	B, S
<i>Ulmus parviflora</i>	Chinese Elm	B, S
<i>Zelkova cultivars</i>	Zelkova	P, B, S
MEDIUM DECIDUOUS TREES		
Botanical Name	Common Name	Codes (See Table 6-7)
<i>Acre campestre</i>	Hedge Maple	B, S, U, AP, DR
<i>Acre ginnala</i>	Amur Maple	B, S, U, PS, DR
<i>Aesculus hippocastanum</i>	Horse Chestnut	RZ, SL, IS
<i>Betula nigra</i>	River Birch	B, WS
<i>Carpinus betulus</i>	European Hornbeam	P, S, SL, AP

'Fastigata'		
<i>Carya ovata</i>	Shagbark Hickory	B, RF
<i>Cercidiphyllum japonicum</i>	Katsura Tree	B, S
<i>Cladastris lutea</i>	Yellowwood	P, B, S
<i>Diospyros virginiana</i>	Persimmon	B, RF
<i>Magnolia macrophylla</i>	Bigleaf Magnolia	B
<i>Metasequoia glyptostroboides</i>	Dawn Redwood	P, B, S, WS
<i>Morus alba</i>	Mulberry	RF, F
<i>Nyssa sylvatica</i>	Blackgum	P, B, RF, WS, T
<i>Quercus robur</i> 'Fastigiata'	English Oak	P, S, B, SL
<i>Taxodium distichum</i>	Bald Cypress	B, S, RF, WS
SMALL DECIDUOUS TREES		
Botanical Name	Common Name	Codes (See Table 6-7)
<i>Amelanchier arborea</i>	Downey Serviceberry	B, RF, PS, SH, W, I
<i>Amelanchier laevis</i>	Alleghany Serviceberry	B, PS, SH, W, I
<i>Carpinus caroliniana</i>	American Hornbeam	B, RF, WS, SH
<i>Cercis canadensis</i>	Redbud	B, S, RF, U, SL, DR, PS, SH
<i>Cornus florida</i>	Dogwood	B, RF, S, U, SH, D
<i>Cornus kousa</i>	Kousa Dogwood	B, S, U
<i>Koeleruteria paniculata</i>	Goldenrain Tree	B, S, U, SL, DR
<i>Lagerstroemia indica</i>	Crepe Myrtle	P, B, S, U, SL
<i>Magnolia soulangeana</i>	Saucer Magnolia	B, S, U, AP
<i>Malus</i> spp. Improved varieties	Crabapples	B, S, U, DR, D, I, F
<i>Ostrya virginiana</i>	Ironwood	B, T
<i>Prunus sargentii</i>	Sargent's Cherry	P, B, S, U
<i>Pyrus calleryana</i> 'Aristocrat' 'Redspire' 'Whitehouse' 'Chanitclarie' Cleveland Select 'Capital'	Ornamental Pear	P, B, S, SL, DR, W
COMPACT DECIDUOUS TREES		
Botanical Name	Common Name	Codes (See Table 6-7)
<i>Acer palmatum</i>	Japanese Maple	B, S, U, PS, SH

Chionanthus virginicus	Fringetree	B, RF, U, PS
Magnolia stellata	Sta Magnolia	B, S, U, AP
Oxydendron arboretum	Sourwood	B, S, RF, T
Prunus cerasifera	Flowering Plum	B, S, U
Sassafras albidum	Sassafras	B, RF, T
Stewartia koreana	Korean Stewartia	B, U
Stewartia ovata	Mountain Stewartia	B, U
Stewartia pseudocamellia	Japanese Stewartia	B, U
Styrax japonicum	Japanese Snowball	B, U, PS
EVERGREEN TREES RECOMMENDED FOR GENERAL USE		
Botanical Name	Common Name	Codes (See Table 6-7)
Cedrus atlantica	Atlas Cedar	B
Chamaecyparis spp.	Chamaecyparis	B, U
Cupressocyparis leylandi	Leyland Cypress	B, U
Ilex aquifolium cultivars	English Holly	B, U
Ilex opaca cultivars	American Holly	B, RF, U, WS, DR
Juniperus virginiana	Red Cedar	B, RF, U, WS, DR
Magnolia virginiana	Sweetbay Magnolia	B, RF, I, WS
Magnolia graniflora	Southern Magnolia	B
Picea abies	Norway Spruce	B
Pinus nigra	Austrian Pine	B
Pinus thunbergii	Japanese Pine	B
Pinus virginiana	Virginia Pine	RF
Thuja spp.	Arborvitae	B, WS
TREES NOT ACCEPTABLE FOR GENERAL USE		
Botanical Name	Common Name	Codes (See Table 6-7)
Acer negundo	Boxelder	D, I, W, R
Acer platanoides	Norway Maple	R
Acer pseudoplatanus	Sycamore Maple	D, W
Acer saccharinum	Silver Maple	D, I, W, R
Ailanthus altissima	Tree of Heaven	W, INVASIVE
Albizia julibrissin	Mimosa	D, W, INVASIVE
Betula papyrifera	Paper Birch	D, I

Betula pendula	European White Birch	D, I, W
Crataegus phasnopyrum	Washington Hawthorn	I
Ginkgo biloba	Female Ginkgo	I
Gleditsia triacanthos	Thorny Honeylocust	I, THORNS
Maclura pomifera	Osage Orange	F, THORNS
Morus spp.	Mulberry	W, F, INVASIVE
Populus spp.	Poplar	D, W, R
Salix spp.	Willows	W, R
Sorbus spp.	Mountain Ash	D, I
Pawlonia tomentosa	Empress Tree	W, F
Pinus strobes	White Pine	D, W
Prunus serotina	Black Cherry	D, I
Ulmus Americana	American Elm	D, I
Ulmus pumila	Siberian Elm	W
SHRUBS NOT ACCEPTABLE FOR GENERAL USE		
Botanical Name	Common Name	Codes (See Table 6-7)
Azalea spp. And cultivars	Japanese Azalea	D, I
Eleagnus ubellatus	Autumn Olive	INVASIVE
Kalmia latifolia	Mountain Laurel	
Pieris japonica	Andromeda	I
Pyracantha spp.	Pyracantha	I
Rhododendron spp. And cultivars	Rhododendron	D, I

Table 6-9 PLANT SELECTION GUIDE FOR STORM WATER MANAGEMENT FACILITIES				
Botanical Name/ Common Name	Wildlife	Wetland status	Flood Tolerant.	Comment
Large Deciduous Trees				
Acer rubrum/ Red Maple	High	FAC	Yes	Rapid growth
Celtis laevagata/ Hackberry		FACW		
Fagus grandiflora/ American Beech loam	High	FACU	No	Prefers shade; well- drained

Fraxinus pennsylvanica /Green Ash	Moderate	FACW	Yes	Stream stabilizer
Fraxinus nigra/ Black Ash	Moderate	FACW	Yes	Stream stabilizer
Juglans nigra/ Black Walnut	High	FACU		
Larix laricina	Low		Yes	Conifer; full sun; boggy soil
Liquidambar styraciflua/ Sweetgum	Moderate	FAC	Yes	Tolerates acid or clay soils
Liriodendron tulipifera/ Tulip Tree	Moderate		No	Rapid growth
Platanus occidentalis/ Sycamore	Low	FACW	Yes	Rapid growth
Populus deltoids/ Eastern Cottonwood		FACW		Rapid growth
Quercus bicolor/ Swamp White Oak	High	OBL	Yes	
Quercus falcate/ Southern Red Oak	High	FACW	Yes	
Quercus michauxii/ Swamp Chestnut Oak	High	FACW	Yes	
Quercus palustris/ Pin Oak	High	FACW		
Quercus phellos/ Willow Oak	High	FACW	No	
Medium Deciduous Trees				
Botanical Name/ Common Name	Wildlife	Wetland status	Flood Tolerant.	Comment
Asimina triloba/ Paw Paw		FACU+		
Betula nigra/ River Birch	Low	FACW	Yes	Stream bank stabilizer
Carpinus caroliniana/ American hornbeam		FACU		
Carya cordiformis/ Bitternut hickory	High	FACU+		
Carya ovata/ Shagbark hickory	High	FACU-		
Diospyros virginiana/ Persimmon	Moderate	FAC-	No	Needs full sun
Metasequoia glyptostobodies/ Dawn Redwood				
Nyssa sylvatica/	High	FAC	Yes	

Black gum				
Salix alba/ White Willow		FACW	Yes	
Salix babylonica/ Weeping Willow		FACW-	Yes	
Salix nigra/ Black Willow	Low	FACW+	Yes	Streambanks
Taxodium distichum/ Bald Cypress	Moderate	FACW+	Yes	Prefers sun
Small Deciduous Trees				
Botanical Name/ Common Name	Wildlife	Wetland status	Flood Tolerant.	Comment
Alnus glutinosa/ Black Alder		FACW	Yes	Rapid growth; Streambanks
Alnus serrulata/ Common Alder		OBL		
Amelanchier Canadensis/ Serviceberry	High	FAC	Yes	Prefers shade; Understory
Chionanthus virginicus/ Fringe Tree		FAC+		
Crataegus spp./ Hawthorns	High	FACU		
Magnolia virginiana/ Sweetbay Magnolia	Low	FACW+	Yes	Prefers some shade
Morus alba/ White Mulberry	Moderate	FACU		
Prunus serotina/ Black Cherry	High	FACU		
Prunus virginiana/ Purple Chokecherry	High	FACU	No	
Sorbus aucuparia/ European Mountain Ash		FACU		
Evergreen Trees				
Botanical Name/ Common Name	Wildlife	Wetland status	Flood Tolerant.	Comment
Chaemacyparis spp.	Cover	OBL	No	
Cryptomeria japonica				
Ilex opaca/ Holly, American	Food	FAC	Infrequent	Plant 1 male, 10 female
Juniperus virginiana/ Eastern Red cedar	Food	FACU	No	
Magnolia virginiana/ Swamp Magnolia or Sweetbay	Low	FACU+	Yes	Semievergreen
Pinus virginiana/	High	FAC-	Some	

Virginia Pine				
Thuja occidentalis/ Eastern Arborvitae	Cover	FACW	No	
Deciduous Shrubs				
Botanical Name/ Common Name	Wildlife	Wetland status	Flood Tolerant.	Comment
Aronia arbutifolia/ Red Chokeberry	Moderate	FACW	Yes	
Aronia melanocarpa/ Black Chokeberry		FAC		
Berberis thunbergii/ Japanese Barberry		FACU	No	Thorny
Calycanthus floridus/ Sweet Shrub				
Cephalanthus occidentalis/ Buttonbush	High	OBL	Yes	
Clethra alnifolia/ Sweet Pepperbush		FAC+	Yes	
Cornus amomum/ Silky Dogwood	Moderate	FACW	Yes	Shade; drought tolerant
Cornus stolonifera/ Red Osier Dogwood	Moderate	FACW+	Yes	Shade tolerant
Crataegus spp./ Hawthorns		FACU	No	
Euonymus	High	FACU	No	
Gaylussacia spp./ Huckleberries	High	FAC		
Hammamelis virginiana/ Witch Hazel	Low	FAC-	No	
Ilex laevegata/ Smooth Winterberry	Moderate	OBL	No	
Ilex verticillata/ Common Winterberry	High	FACW		
Lindera benzoin/ Spice Bush	Moderate	FACW	No	
Myrica pennsylvanica/ Northern Bayberry	High	FAC		
Prunus virginiana/ Purple Chokecherry	High	FACU	No	
Rhododendron maxima/ Rosebay Rhododendron		FAC		
Rhododendron viscosum/ Swamp Azalea	Low	OBL	Yes	
Rhus typhina/ Staghorn Sumac	Moderate			
Rosa palustris/ Swamp Rose		OBL		
Rosa rugosa/ Rugosa Rose	High	FACU-		

Rubus hispida/ Bristly Hispoides Blackberry – BOG	High	FACW		
Sambucus Canadensis/ American Elder	High	FACW-	Yes	
Salix purpurea 'Streamco'/ Purple-osier Willow	Moderate	FACW		Stream stabilizer
Spirea tormentosa/ Steeple Bush		FACW		
Vaccinium corymbosum/ Highbush Blueberry	High	FACW-		
Viburnum spp.	Moderate	FACW		
Viburnum – many more		FAC		
Viburnum opulus/ European Cranberry				
Viburnum prunifolium/ Black Haw		FACU		
Broadleaf Evergreen Shrubs				
Botanical Name/ Common Name	Wildlife	Wetland status	Flood Tolerant.	Comment
Euonymus americanus/ Strawberry-bush, American	Moderate	FAC	No	
Ilex glabra/ Inkberry		FACW-	Yes	
Kalmia augustifolia/ Sheet-laurel		FAC	No	
Kalmia latifolia/ Mountain Laurel	Low	FACU	No	Tolerates acid soils
Woody Vines				
Botanical Name/ Common Name	Wildlife	Wetland status	Flood Tolerant.	Comment
Campsis radicans/ Trumpet Vine		FAC	No	Rampant
Celastris scandens/ Bittersweet	Low	FACU-	No	Rampant
Clematis virginiana/ Virgin's Lover	Low		No	
Parthenocissus quinquefolia/ Virginia Creeper trianspiolata		FACU		
Rubus hispidus/ Swamp Dewberry	High	FACW	No	
Vitis riparia/ Riverbank Grape	High	FACW	No	
Vitis Vulpina/ Winter Grape	High	FAC	No	

Emergent and Aquatic Plants				
Botanical Name/ Common Name	Wildlife	Wetland status	Flood Tolerant.	Comment
Acorus calamus/ Sweet Flag	Low	OBL	Yes	Emergent
Cephalanthus occidentalis/ Buttonbush	High	OBL	Yes	Emergent
Ceratophyllum demersum/ Coontail	Low	OBL	Yes	Emergent
Cyperus spp./ Sedges	Moderate	Varies	Yes	Emergent
Hibiscus moscheutos/ Marsh Hibiscus	Low	OBL	Yes	Emergent
Iris pseudoacorus/ Water Iris	Low	OBL	Yes	Perimeter
Leersia oryzoides/ Rice Cutgrass	Moderate	OBL	Yes	Emergent
Nasturtium officinale/ Water Cress	Moderate	OBL	Yes	Emergent
Nuphar luteum/ Spatterdock	Moderate	OBL	Yes	Emergent
Peltandra virginica/ Arrow Arum/ Duck Corn	Wood ducks	OBL	Yes	Emergent
Polygonum spp./ Smartweed	High	Varies	Yes	Emergent
Pontederia cordata/ Pickerelweed	Low	OBL	Yes	Emergent
Potamogeton spp./ Pond Weed	High	OBL	Yes	Submergent
Sagittaria latifolia/ Arrowhead/ Duck Potato	Moderate	OBL	YES	Emergent
Saururus cernuus/ Lizard's Tail	Low	OBL	Yes	Emergent
Scirpus americanus/ Common Three-Square	High	OBL	Yes	Emergent
Scirpus validus/ Soft-stem Bulrush	Moderate	OBL	Yes	Emergent
Viburnum recognitum 'Fernald'/ Smooth Arrowhead		FACW-		
Viburnum trilobum/ Highbush Cranberry	Moderate	FACW	yes	

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SIGN REGULATIONS

7-1 PURPOSE AND INTENT

The provisions of this Article are intended to establish regulations for all exterior signs and to further the objectives of the Lovettsville Comprehensive Plan. In that regard, it is intended to promote signs that are beneficial to businesses and maintain a uniform criterion throughout the Town that protects the character, history, and community within the Town of Lovettsville corporate limits. The provisions of this Article are intended to permit signs that are compatible with the landscape/streetscape and architecture of surrounding buildings; are legible and appropriate to the activity to which they pertain; are not distracting to motorists; and are constructed and maintained in a structurally sound and attractive condition.

Specifically, this Article is intended to protect the general public health, safety, convenience, and welfare; to reduce traffic hazards caused by unregulated signs that may distract, confuse, and impair the visibility of motorists and pedestrians; to promote the safety of public streets, highways, and other public improvements; to facilitate the creation of an attractive and harmonious community; to protect property values; and to further economic development.

7-2 APPLICABILITY

Signs constitute a separate and distinct use of the land. For purposes of this ordinance, signs are considered as accessory uses of real property and shall only be located on the property to which they pertain. These regulations shall apply to all signs erected, installed, or affixed within the Town of Lovettsville subsequent to July 1, 2008.

7-3 SIGN PERMIT REQUIRED

Any sign that is erected, installed, affixed, relocated, or replaced in any zoning district, shall have a permit, except as provided in Section 7-5 of this Article.

7-4 SIGN DEFINITIONS

The following definitions are for all signs allowed by this Article. Any type of sign not expressly allowed in this section or allowed at the discretion of the Zoning Administrator is not allowed.

Awning. A sign that is imprinted upon or affixed to a roof-like cover, whether retractable or not, and affixed to and extending from a building with open air underneath. An awning is meant for sheltering occupants of a building from the elements.

Banner. A sign made of a flexible material and is meant to flutter when activated by the wind.

Bulletin Board. A sign that identifies an institution or organization on whose premises it is located and that contains the name of the institution or organization, the names of individuals connected with it; and provides information about or announcements of events or activities occurring on the property.

Canopy. A sign that is imprinted upon or affixed to a canopy. A canopy is a permanent or temporary structure that provides a roof over a specific area without walls and is meant to protect people from the elements

Changeable Copy. Letters, symbols and numbers that appear on a sign that can be rearranged manually.

Civic, philanthropic, educational, or religious events. Signs for organized civic, philanthropic, educational or religious activities sponsored by non- governmental organizations or associations.

Construction. A temporary sign erected on the premises where construction is taking place, during the period of such construction, indicating the names of the architects, engineers, landscape architects, contractors, or similar artisans, and the owners, financial supporters, sponsors, or firms having a role with respect to the development on a site.

Credit Card, Association Decals. Signs that are generally affixed to glass that advertise which credit cards are accepted by a business or what business or other associations are associated with an activity on a property.

Directory. A sign listing the tenants or occupants of a building or group of buildings and that may also indicate their respective professions, businesses, and hours of operation.

Flag or pennant. A sign constructed of a flexible material that moves under the force of the wind and installed for decorative, advertising, identification, personal expression, or other purposes.

Freestanding. A sign that is not affixed to a building or similar structure but is anchored into the ground or a structure specifically designed to hold the sign in place. Pole and monument signs are freestanding signs; wall, projecting, canopy, awning signs are not freestanding.

Government. A sign erected and maintained by a governmental entity pursuant to and in discharge of any governmental function or required by law, ordinance, or other governmental regulation; or intended to direct or control traffic; identify streets, parks, and historical events; or to provide other official information.

Ground-Mounted. (see Monument sign)

Information-Directional. A sign that provides information and directions necessary or convenient for visitors coming on the property to reach a destination on the property. Such signs include those for marking and indicating the location of structures or features; entrances and exits, parking areas, circulation direction, restrooms, and pickup and delivery.

Landmark / Historical/Memorial. Any sign identifying a place, site, structure, feature, or vista of artistic or historic merit, uniqueness, or of significance to the entire community.

Logo. A business brand or trademark that is usually an image but may include letters or numbers.

Model Home Office or Sales Trailer. Signs that identify the sales opportunity within a community, commercial, or light industrial development. May include address, hours of operation, phone numbers, business logos, and other information related to the sale of leasing of property.

Monument. A sign which is designed so its entire bottom edge is in contact with or is within six (6) inches of the ground upon which it is installed.

OPEN. A sign imprinted with the word "OPEN", indicating that the public may have access to a business, service, function, or activity.

Personal Expression. A sign that shows religious, political, or other messages, including any combination of words and images; or a sign used as decoration. Includes grave markers.

Pole. A freestanding sign that is mounted on or affixed to one or more posts or poles.

Portable. Any sign that can be moved from one location to another by one person without the aid of a machine.

Private Event. Any non-commercial activity on private property in any zoning district that is sponsored or permitted by the owner of the property. The activity can be open to the public or only to guests of the property owner.

Property Posting. Signs that show such information as "Private Property," "No Trespassing", "No Hunting", "Beware of Dog", "For Sale", "Danger", "No Access", "Not Liable for Injury", "No Picnicking", or "Private Entrance".

Private Sale, Yard Sale. A temporary sign advertising private sales of personal property, such as "For Sale", "For Rent", "garage sales", "yard sales", and "rummage sales".

Projecting. A sign that hangs or extends from a building or a structure.

Real Estate. A sign advertising the sale or lease of a property.

Residence Address and Name. A sign indicating the name and/or address of the occupants of a residential property.

Seasonal produce stand. A sign identifying an outdoor, open air tent or stand made of wood or other solid material from which locally grown or manufactured food products are sold to the public during the local growing season.

Suspended. (See Projecting)

Vehicle Safety Inspection. A sign that indicates that official State vehicle inspections and emissions testing are available.

Wall. A sign comprised of lettering, numbers, images, or logos, or any combination, affixed to, imprinted upon, or projected onto an exterior wall, or structure. Projected wall signs shall comply with sign illumination standards, Section 7-5 A, 8.

Window. A sign that is affixed to or imprinted upon a windowpane and is visible from off-site.

7-5 SIGN STANDARDS

A. General Sign Standards

- (1) Determination of Sign Height: The height of a sign shall be measured from the ground level to the top most portion of the sign.
- (2) Number of Sign Faces: No sign shall have more than two (2) sign faces.
- (3) Determination of Monument Sign Area: The surface area of the sign face or the space enclosing lettering or logo, not the structure upon which the sign may be mounted, shall determine the total square footage of the monument sign.
- (4) Determination of Sign Area: This is a measure of the surface area which encompasses any regular geometric figure (square, circle, rectangle, triangle, etc.) enclosing all parts of the sign face.

- (5) Area of Sign with Two Sign Faces: The area of a sign with two (2) sign faces shall be computed according to the following:
 - i. Sign faces separated by an interior angle of forty five (45) degrees or greater, both sign faces shall be included.
 - ii. Sign faces separated by an interior angle of less than forty five degrees (45), one sign face shall be included, provided, however, the area of the largest sign face shall be used when two faces are unequal in areas.
 - (6) No sign shall be located on a roof of any type. This does not apply to canopy signs.
 - (7) No sign shall be located in a public right-of-way without permission of the Virginia Department of Transportation and notification to the Town.
 - (8) Sign Illumination. These standards apply to all signs:
 - i. Internally illuminated signs are prohibited, except where expressly allowed in this Article.
 - ii. The exterior illumination of signs shall be focused only on the sign and sign area for which it is intended and shall not cast distracting glare or reflect light beyond the property upon which the sign is located.
 - iii. An OPEN sign may be illuminated internally (e.g., neon, backlit, or LED type) with any color or externally only by white light and no part of the sign shall move or be flashing. Such a sign shall only be illuminated during business hours. An OPEN sign may include the hours of operation. See Section 7-5 B, OPEN sign, for standards that apply.
 - iv. Projected wall signs shall not move, flash or be animated.
 - (9) An individual business is defined for purposes of this Article as one or more commercial activities that occupy the same leased or owned space. It is the space, not the number of commercial activities within that space that constitutes an individual business. Signage standards apply to the space not the number of tenants occupying such space.
- B. Standards by Sign Type. Signs are to be considered permanent and permits required, unless otherwise stated.
- (1) **Awning.** Area of sign may be up to ten (10) square feet. Logos may be included in such a sign. Lettering and numbers that are not part of a logo shall not exceed eight (8) inches in height.
 - (2) **Banner.** Only allowed for non-residential uses in any district, except for personal expression signs. The total area of a banner sign shall not exceed thirty (30) square feet. Sign shall be set back five (5) feet from the property boundary. Shall only be a temporary sign.
 - (3) **Bulletin Board.** Area shall not exceed four (4) square feet, except in a multi-tenant property, in which case the area shall be determined by the Zoning Administrator. (No permit required)
 - (4) **Canopy.** No more than one sign on a side is allowed and signs are allowed on no more than two (2) sides of a single canopy. The area of each sign on each side of a canopy shall not exceed twenty (20) square feet.

- (5) **Changeable Copy.** No standards apply to the copy. (No permit required). Standards apply to the types of signs upon which changeable copy is affixed, as stated in this section.
- (6) **Civic, Philanthropic, Educational, or Religious Events.** Temporary signs only for such events not sponsored by a governmental entity. Number of signs shall not exceed one (1). Sign area shall comply with standards for the type of sign. Signs shall not be displayed more than thirty (30) days prior to the event and shall be removed within three (3) calendar days following the event.
- (7) **Construction.** Such signs identify the project, the owner or developer, contractor, subcontractors, architect, landscape architect, engineer and funding sources and may contain related information including but not limited to sale or leasing information. Not more than one sign shall be erected per public street frontage of the property, not including internal public streets. Each sign permitted shall not exceed an area of twenty (20) square feet and six (6) feet in height and shall not be illuminated. Such signs shall be removed within 30 days after issuance of the last occupancy permit in the development. (No permit required)
- (8) **Credit Card, Association Decal.** No standards apply. (No permit required)
- (9) **Directory.** Sign area shall not exceed four (4) square feet per tenant. The sign area of such signs on a multi-tenant property shall be determined by the Zoning Administrator. (No permit required)
- (10) **Flag or Pennant.** Shall not exceed fifteen (15) square feet. Area of such signs is not included in the total square footage allowed for a business or development. Such signs must hang at least eight feet above grade if it is hung over a pedestrian walkway and may not hang over any portion of a public street right-of-way. (No permit required)
- (11) **Freestanding.** (See Monument and Pole signs)
- (12) **Government.** No standards apply. (No permit required)
- (13) **Ground-Mounted.** (See Monument sign)
- (14) **Information-Directional Sign.** The size and location of such sign(s) shall be determined by the Zoning Administrator, or other governmental entity. (No permit required unless part of a comprehensive signage plan)
- (15) **Landmark/ Historical/Memorial.** Landmark/Historical/Memorial signs shall only be allowed if installed or sponsored and/or approved by a governmental entity. (No permit required)
- (16) **Logo.** Area shall not exceed two (2) square feet and shall be included in the area of the signage allowed.
- (17) **Model Home Office or Sales Trailer.** One (1) sign allowed. Sign area shall not exceed ten (10) square feet. Sign shall refer only to the community to which the sales or leasing refers.
- (18) **Monument.**
 - i. Maximum Height: Ten (10) feet for sites with multiple businesses; and six (6) feet for sites with single businesses and residential subdivisions.
 - ii. Maximum Sign Area: Fifteen (15) square feet.

- iii. Maximum Number of Signs per lot: One (1), except as allowed in Section 7-7, Commercial and Light Industrial Districts.
 - iv. Number of Sign Faces: No sign shall have more than two (2) faces.
 - v. Illumination: White external lights only.
 - vi. Minimum Setback of Monument Signs: Ten (10) feet from any public right-of-way, service drive, or entrance.
- (19) **OPEN sign.** One OPEN sign is permitted per business, per street frontage. Sign area shall not exceed 1.5 square feet (See Section 7-5 A (8). Sign Illumination (iii) for OPEN signs. (No permit required)
- (20) **Personal Expression.** Area of sign shall not exceed three (3) square feet, except for grave markers which have no standards. Temporary personal expression signs exceeding three (3) square feet are permitted for up to seven (7) calendar days within a twelve (12) month period. (No permit required)
- (21) **Pole.**
- i. Maximum Height: Six (6) feet.
 - ii. Maximum Sign Area: Fifteen (15) square feet, except where otherwise specifically provided.
 - iii. Maximum Signs per lot: One (1), except where otherwise specifically provided in this Article.
 - iv. Number of Sign Faces: No sign shall have more than two (2) faces.
 - v. Illumination: White external lights only.
 - vi. Setbacks: Five (5) feet for front yard. No less than five (5) feet from a residential district for a side yard. No less than twenty (20) feet from a residential district for a rear yard.
 - vii. For pole signs related to real estate sales or leasing, see Real Estate sign.
- (22) **Portable.** Such signs are allowed up to twelve (12) square feet for a single-sided sign and twenty-four (24) square feet for a two-sided sign or sandwich board. Maximum height shall be four (4) feet. Such signs shall not be visible after business hours and shall not be placed in the public right-of-way or public access easement in a manner that blocks pedestrian circulation on a sidewalk. Portable signs are allowed on a continuous basis. (No permit required). No standards for signs in residential districts, except for those standards that apply to the time allowed for such signs.
- (23) **Property Posting.** Sign area of each sign shall be limited to no more than two (2) square feet. (No permit required)
- (24) **Private Sale, Yard Sale.** Temporary sign limited to three days per sale. (No permit required)
- (25) **Projecting.**
- i. A projecting sign may extend horizontally from the building to which it is mounted no more than three (3) feet.
 - ii. If located over a pedestrian walkway, the bottom of a projecting sign

shall be at least eight (8) feet above the walking surface of the walkway and may not overhang a public right-of-way or walkway or private access easement or obstruct any walkway, window, or balcony of an adjoining property.

- iii. The area of a projecting sign may be one (1) square foot per linear foot of building frontage on which the sign is to be attached, up to twelve (12) square feet.
- iv. Setbacks: None.

(26) Real Estate For Sale or Lease (Residential).

- i. One (1) sign is permitted for each parcel.
- ii. Sign area shall not exceed six (6) square feet.
- iii. Sign height is limited to six (6) feet.
- iv. Sign may not be illuminated.
- v. Signs shall not overhang a public right of way or private access easement.
- vi. Sign must be removed within thirty (30) days after sale or lease of property.

(No permit required)

(27) Real Estate For Sale or Lease (Non-residential)

- i. One (1) sign is permitted for each parcel.
- ii. Sign area shall not exceed fifteen (15) square feet.
- iii. Sign height is limited to six (6) feet.
- iv. Sign may only be illuminated externally with white light.
- v. Sign shall not overhang a public right of way or private access easement.
- vi. Sign must be removed within thirty (30) days after sale or lease of parcel or tenant space.

(No permit required)

(28) Residence Address and Name. No standards apply. (No permit required)

(29) Seasonal produce stand. No more than two (2) signs allowed. Sign area shall not exceed ten (10) square feet per sign. Sign height shall not exceed six (6) feet. Signs shall only be posted during the selling season.

(30) Suspended. See Projecting sign.

(31) Vehicle Safety Inspection. No standards apply. (No permit required)

(32) Wall.

- i. No wall sign shall cover, cross, or otherwise hide windows, columns, or other architectural features of a building.
- ii. The maximum area of any wall sign shall not exceed one (1) square foot for each linear foot in length of the building façade, or façade of an

individual business space, to which such sign is attached up to a maximum aggregate of one hundred (100) square feet.

iii. The height of a wall sign shall not exceed twenty-five (25) feet from the ground.

iv. Setbacks: None.

(33) **Window.** Sign shall cover no more than twenty (20) percent of the total window area in which it is placed and shall be located no higher than the first floor of a building, unless permitted under an approved comprehensive signage plan or as may be allowed in Section 7-7.

7-6

SIGNS IN RESIDENTIAL DISTRICTS

A. Residential Developments. Standards apply to residential communities or subdivisions that are developer-owned or that have homeowners associations and to the common areas within these communities or subdivisions. These standards do not apply to individual lots within such communities or subdivisions.

- (1) One (1) monument sign showing only the name of the community or subdivision per external street entrance into the community. No other type of sign is permitted in this location, except for temporary signs, as described in (iv) of this section.
- (2) The height of the sign shall not exceed six (6) feet from the ground.
- (3) Sign(s) shall only be located on commonly owned land within the community.
- (4) Temporary sales sign(s) are allowed with an area not to exceed twenty (20) square feet and shall be allowed until there are no remaining lots for sale. Signs may be pole, wall, banner, portable, or monument type.
- (5) Signs attached to common accessory uses, such as community centers, club houses, tennis courts, and swimming pools, shall have an area no greater than four (4) square feet. Any type of sign is permitted. (No permit required).
- (6) Directional and address-identification signs shall have a maximum area of two (2) square feet. Any type of sign is permitted. No permit required.
- (7) Security or warning signs are permitted and have no maximum area.
- (8) All such signs shall only be located on common land owned by the development or homeowners association and permits only issued to properly constituted homeowners associations.

B. Non-Residential Uses in Residential Districts.

- (1) Type of signs permitted: Flag, Monument, Pole, Portable, Projecting and Wall. No more than one (1) of any type sign per lot.
- (2) Number of signs: one (1) per street frontage; two (2) per lot.
- (3) Area of an individual signs: monument and wall signs shall be no more than ten (10) square feet. Projecting signs shall be no more than five (5) square feet.
- (4) Total area of signage per lot: thirty (30) square feet.
- (5) Height of monument sign: no more than six (6) feet from the ground.

- (6) Height of wall sign: no more than ten (10) feet from the ground.
- (7) Setbacks and yards: Signs in front yards shall have no setback. Signs shall not be placed in front or side yards, except for through lots, which may have a sign in both front yards. A corner lot may only have a sign in one front yard.
- (8) Illumination: See Sec. 7-5 (A) (8).

7-7 SIGNS IN COMMERCIAL AND LIGHT INDUSTRIAL DISTRICTS

A. General

- (1) Development and Construction Standards. All signs requiring a permit shall comply with the requirements of Sections 7-5 and 7-6.
- (2) Signs Facing Residential Districts: Any sign erected within one hundred (100) feet of either an existing residential use or a residential district shall be non-illuminated and limited to sixteen (16) square feet in area.

B. Signs for Individual Businesses. A single business located on a single lot is allowed the following:

- (1) Maximum Number of Signs: Three (3) comprised of two (2) permanent and one (1) portable sign.
- (2) Types of Signs Permitted: Awning, Canopy, Monument, Pole, Portable, Projecting and Wall.
- (3) Height of Sign: See Sec. 7-5.
- (4) Area of Sign: See Sec. 7-5.

C. Signs for Multiple Business Developments. The following sign standards apply to all lots (or multiple contiguous lots under the same ownership) with multiple businesses; including office parks, light industrial parks, and shopping centers:

- (1) Multiple Business Development Identification Sign: One (1) monument sign within twenty-five feet of a public right-of-way that fronts on a public right-of-way. Such signs shall be allowed an area of one (1) square foot per five linear feet of a lot or lots comprising a development, up to a maximum of one-hundred (100) square feet; a maximum height of twelve (12) feet identifying the name of the development and the businesses within the development. The area of signs for individual businesses that are affixed to the multiple business development identification sign shall not be counted as part of the allowable sign area for individual businesses in multiple business development.
- (2) Maximum Number of Signs per Business: Three (3), at least two must have to be permanent.
- (3) Types of Signs Permitted: Awning, Canopy, Flag, Monument, Pole, Portable, Projecting, and Wall.
- (4) Maximum Size of Signs: See Standards section.
- (5) Maximum Height of Signs: See Standards section.
- (6) Directory Sign: One (1) wall mounted sign per building placed near the principal entrance of the building shall be no more than fifteen (15) square feet in area and shall not be included with the number of signs permitted in (c) ii above. The area of signs for individual businesses that are affixed to the

directory sign for a multiple business development shall not be counted as part of the allowable sign area for individual businesses in multiple business development.

- (7) Signs for Individual Businesses within Multiple Business Developments: All standards are the same as for individual businesses, except that no monument signs shall be allowed, and second floor tenant space shall be entitled to 25 percent of the sign area which would be allotted to identical first floor tenant space.

7-8 COMPREHENSIVE SIGN PLAN

- (1) A comprehensive sign plan for a single lot or multi-lot development of over two (2) acres with multiple businesses is required and such a plan is meant to provide unified, internally harmonious signage for the entire project.
- (2) Applications for comprehensive sign plans shall indicate the type of signs(s), location on the ground or building size, height, area, design, materials, and color.
- (3) Comprehensive sign plans shall be evaluated in terms of the relationship of the signs to the architecture of the buildings.
- (4) All signs for single lot or multi-lot developments shall comply with the applicable standards in this Article in addition to the standards herein.
- (5) No modifications shall be made to an approved comprehensive signage plan for any single sign or tenant unless the entire comprehensive signage plan is the subject of amendment.

7-9 TEMPORARY SIGNS

- (1) Any sign that is otherwise allowed may be a temporary sign.
- (2) Temporary signs shall be limited to two (2) months during any calendar year.
- (3) Sign area shall comply with standards in this article for types of signs.

7-10 ADMINISTRATION AND ENFORCEMENT

A. Application for a Permit. Sign permit applications and sign permits shall be governed by the same provisions of this ordinance applicable to zoning permits (See zoning ordinance).

- (1) *Filing of Application and Fees.* Applications for sign permits shall be filed on a form provided by the Town, and shall be accompanied by the appropriate fee stated in the Town Schedule of Fees.
- (2) *Applicants.* Applicants can be property owners or tenants.
- (3) *Information Required.* All applications for Sign Permits shall contain the information requested on the Sign Permit Application form in order to be processed.

B. Sign Compliance

- (1) No sign shall be constructed, installed, moved, enlarged, illuminated, or substantially altered unless in accordance with the provisions of this ordinance, except as specifically provided below.

- (2) Wherever the building size, location, or orientation results in a circumstance which is not adequately addressed in this article, a modification to the standards provided herein may be permitted in accordance with the provisions of this subsection. The applicant for any such modification must demonstrate to the satisfaction of the Town Council that compliance with the purpose and intent of the sign regulations will not be compromised. Any modification approved by the Town Council shall be included in a sign permit issued by the Zoning Administrator.

C. Expiration of Sign Permits.

A sign permit shall expire and become null and void if the approved sign is not erected within a period of twelve (12) months from the date the permit was originally issued. The Zoning Administrator may grant one extension of the sign permit for a period of six (6) months, but in no case shall a permit be valid for more than a total of eighteen (18) months. Extensions may only be granted when the proposed sign is in compliance with all current applicable regulations. When approved permits become void or expire a new application is required if a sign is to be allowed.

D. Revocation.

The Administrator may revoke a permit or approval if it is found that there has been concealment or misrepresentation of material facts in either the application or plans, or the sign has not been constructed as approved.

E. Non-Conforming Signs.

Non-conforming signs may not be replaced, reconstructed, enlarged, extended, modified, or moved. A nonconforming sign destroyed by any cause may not be repaired, reconstructed, or replaced except in conformity with this Article. For the purpose of this section, a nonconforming sign is destroyed if damaged to an extent that the cost of repairing the sign to its former condition or replacing the sign with an equivalent sign equals or exceeds 50 percent of the value of the sign so damaged.

F. Construction and Maintenance Standards.

- (1) Building Code Compliance: All signs shall be constructed in compliance with the Virginia Uniform Statewide Building Code.
- (2) Condition of Signs: All signs and components shall be maintained in good repair and in a safe, clean, and attractive condition.

G. Removal of Unsafe Signs.

- (1) Whenever, in the opinion of the Zoning Administrator, a sign becomes structurally unsafe or endangers the safety of a structure or the public, the Zoning Administrator shall order such sign to be made safe or comply with the ordinance as the case may be, or be removed. The order shall be sent registered or certified mail and shall be complied with within five days from the date of the mailing. Failure to comply with the order shall constitute grounds for the Zoning Administrator to have the sign removed, and the cost of the removal shall be added to any penalty assessed for the violation under this ordinance.

- (2) Whenever, in the opinion of the Zoning Administrator, an unsafe sign poses an imminent threat of serious injury to person or property, and the Zoning Administrator is unable to contact the property owner, the Zoning Administrator may cause the sign immediately to be made safe or removed, and the cost thereof shall be charged to the owner.

H. Removal of Illegal Signs.

An illegal sign is any sign that does not comply with any provision of this ordinance. The Zoning Administrator may order the removal of any illegal sign at the expense of the property owner.

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FLOODPLAIN ORDINANCE

8-1 GENERAL PROVISIONS

(a) PURPOSE AND INTENT

This ordinance is adopted pursuant to the authority granted to localities by Va. Code § 15.2 - 2280.

The purpose of these provisions is to prevent: the loss of life and property, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by

- (i) regulating uses, activities, and development which, alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities, and frequencies;
- (ii) restricting or prohibiting certain uses, activities, and development from locating within districts subject to flooding;
- (iii) requiring all those uses, activities, and developments that do occur in flood-prone districts to be protected and/or flood-proofed against flooding and flood damage; and,
- (iv) protecting individuals from buying land and structures which are unsuited for intended purposes because of flood hazards.

(b) APPLICABILITY

These provisions shall apply to all privately and publicly owned lands within the jurisdiction of Lovettsville and identified as areas of special flood hazard according to the flood insurance rate map (FIRM) that is provided to the Lovettsville by the Federal Emergency Management Agency ("FEMA").

(c) COMPLIANCE AND LIABILITY:

- (i) No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered except in full compliance with the terms and provisions of this ordinance and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this ordinance.
- (ii) The degree of flood protection sought by the provisions of this ordinance is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study, but does not imply total flood protection. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as

ice jams and bridge openings restricted by debris. This ordinance does not imply that districts outside the floodplain district or land uses permitted within such district will be free from flooding or flood damages.

- (iii) This ordinance shall not create liability on the part of Lovettsville or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made there under.

(d) RECORDS

Records of actions associated with administering this ordinance shall be kept on file and maintained by the Zoning Administrator.

(e) ABROGATION AND GREATER RESTRICTIONS

This ordinance supersedes any ordinance currently in effect in flood-prone districts. Any ordinance, however, shall remain in full force and effect to the extent that its provisions are more restrictive.

(f) SEVERABILITY

If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance shall be declared invalid for any reason whatever, such decision shall not affect the remaining portions of this ordinance. The remaining portions shall remain in full force and effect; and for this purpose, the provisions of this ordinance are hereby declared to be severable.

(g) PENALTY FOR VIOLATIONS

Any person who fails to comply with any of the requirements or provisions of this article or directions of the Zoning Administrator or any authorized employee of the Lovettsville shall be guilty of the appropriate violation and subject to the penalties therefore.

The Virginia Uniform Statewide Building Code ("USBC"), Virginia Code sections 37-96 et seq., addresses building code violations and the associated penalties in Section 36-104 and Section 36-115. Violations and associated penalties of the Zoning Ordinance of Lovettsville are addressed in Section 10-9 of the Zoning Ordinance.

In addition to the above penalties, all other actions are hereby reserved, including an action in equity for the proper enforcement of this article. The imposition of a fine or penalty for any violation of, or noncompliance with, this article shall not excuse the violation or noncompliance or permit it to continue; and all such persons shall be required to correct or remedy such violations within a reasonable time. Any structure constructed, reconstructed, enlarged, altered or relocated in noncompliance with this article may be declared by the Lovettsville to be a public nuisance and abatable as such. Flood insurance may be withheld from structures constructed in violation of this article.

8.2 ADMINISTRATION

(a) DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR

The Zoning Administrator is hereby appointed as Floodplain Administrator. The Floodplain Administrator shall administer and implement these regulations. The Zoning Administrator may:

- i. Do the work himself (or herself). In the absence or disability of a designated Zoning Administrator, the duties are conducted by the Deputy Zoning Administrator.
- ii. Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees.
- iii. Enter into a written agreement or written contract with another community or private sector entity to administer specific provisions of these regulations. Administration of any part of these regulations by another entity shall not relieve Lovettsville of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations at 44 C.F.R. Section 59.22.

(b) DUTIES AND RESPONSIBILITIES OF THE ZONING ADMINISTRATOR

The duties and responsibilities of the Zoning Administrator shall include but are not limited to:

- (i) Review applications for permits to determine whether proposed activities will be located in the Special Flood Hazard Area (SFHA).
- (ii) Consistent with section 8.2 (c) and subject to determination by the Board of Zoning Appeals pursuant to Va. Code section 15.2-2309, interpret floodplain boundaries and provide available base flood elevation and flood hazard information.
- (iii) Review applications to determine whether proposed activities will be reasonably safe from flooding and require new construction and substantial improvements to meet the requirements of these regulations.
- (iv) Review applications to determine whether all necessary permits have been obtained from the Federal, State or local agencies from which prior or concurrent approval is required; in particular, permits from state agencies for any construction, reconstruction, repair, or alteration of a dam, reservoir, or waterway obstruction (including bridges, culverts, structures), any alteration of a watercourse, or any change of the course,

current, or cross section of a stream or body of water, including any change to the 100-year frequency floodplain of free-flowing non-tidal waters of the State.

- (v) Verify that applicants proposing an alteration of a watercourse have notified adjacent communities, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management), and other appropriate agencies (VADEQ, USACE) and have submitted copies of such notifications to FEMA.
- (vi) Approve applications and issue permits to develop in flood hazard areas if the provisions of these regulations have been met, or disapprove applications if the provisions of these regulations have not been met.
- (vii) Inspect or cause to be inspected, buildings, structures, and other development for which permits have been issued to determine compliance with these regulations or to determine if non-compliance has occurred or violations have been committed.
- (viii) Review Elevation Certificates and require incomplete or deficient certificates to be corrected.
- (ix) Submit to FEMA, or require applicants to submit to FEMA, data and information necessary to maintain FIRMs, including hydrologic and hydraulic engineering analyses prepared by or for the Lovettsville within six months after such data and information becomes available if the analyses indicate changes in base flood elevations.
- (x) Maintain and permanently keep records that are necessary for the administration of these regulations, including:
 - (A) Flood Insurance Studies, Flood Insurance Rate Maps (including historic studies and maps and current effective studies and maps) and Letters of Map Change; and
 - (B) Documentation supporting issuance and denial of permits, Elevation Certificates, documentation of the elevation (in relation to the datum on the FIRM) to which structures have been flood-proofed, other required design certifications, variances, and records of enforcement actions taken to correct violations of these regulations.

- (xi) Enforce the provisions of these regulations, investigate violations, issue notices of violations or stop work orders, and require permit holders to take corrective action.
- (xii) Advise the Board of Zoning Appeals regarding the intent of these regulations and, for each application for a variance, prepare a staff report and recommendation.
- (xiii) Administer the requirements related to proposed work on existing buildings:
 - (A) Make determinations as to whether buildings and structures that are located in flood hazard areas and that are damaged by any cause have been substantially damaged.
 - (B) Subject to the provisions of Virginia Code section 15.2-2307, make reasonable efforts to notify owners of substantially damaged structures of the need to obtain a permit to repair, rehabilitate, or reconstruct, and prohibit the non-compliant repair of substantially damaged buildings except for temporary emergency protective measures necessary to secure a property or stabilize a building or structure to prevent additional damage.
- (xiv) Undertake, as determined appropriate by the Zoning Administrator due to the circumstances, other actions which may include but are not limited to: issuing press releases, public service announcements, and other public information materials related to permit requests and repair of damaged structures; coordinating with other Federal, State, and local agencies to assist with substantial damage determinations; providing owners of damaged structures information related to the proper repair of damaged structures in special flood hazard areas; and assisting property owners with documentation necessary to file claims for Increased Cost of Compliance coverage under NFIP flood insurance policies.
- (xv) Notify the Federal Emergency Management Agency when the corporate boundaries of the Lovettsville have been modified and:
 - (A) Provide a map that clearly delineates the new corporate boundaries or the new area for which the authority to regulate pursuant to these regulations has either been assumed or relinquished through boundary line adjustment; and
 - (B) If the FIRM for any area incorporated into Town through a boundary line adjustment includes special flood hazard areas that have flood zones that have regulatory requirements that are not set forth in these regulations, prepare amendments to these regulations to adopt the FIRM and appropriate requirements, and submit the amendments to the governing body for adoption; such adoption shall take place at the same time as or prior to the date of boundary line adjustment and a copy of the

amended regulations shall be provided to Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and FEMA.

(xvi) Upon the request of FEMA, complete and submit a report concerning participation in the NFIP which may request information regarding the number of buildings in the SFHA, number of permits issued for development in the SFHA, and number of variances issued for development in the SFHA.

(xvii) It is the duty of the Lovettsville Zoning Administrator to take into account flood, mudslide and flood-related erosion hazards, to the extent that they are known, in all official actions relating to land management and use throughout the entire jurisdictional area of Lovettsville, whether or not those hazards have been specifically delineated geographically (e.g. via mapping or surveying).

(c) USE AND INTERPRETATION OF FLOOD INSURANCE RATE MAPS

Subject to the provisions of Virginia Code section 15.2-2307, the Zoning Administrator shall make interpretations, where needed, as to the exact location of special flood hazard areas, floodplain boundaries, and floodway boundaries. The following shall apply to the use and interpretation of FIRMs and data:

- i. Where field surveyed topography indicates that adjacent ground elevations:
 - (A) Are below the base flood elevation, even in areas not delineated as a special flood hazard area on a FIRM, the area shall be considered as special flood hazard area and subject to the requirements of these regulations;
 - (B) Are above the base flood elevation, the area shall be regulated as special flood hazard area unless the applicant obtains a Letter of Map Change that removes the area from the SFHA.
- ii. In FEMA-identified special flood hazard areas where base flood elevation and floodway data have not been identified and in areas where FEMA has not identified SFHAs, any other flood hazard data available from a Federal, State, or other source shall be reviewed and reasonably used.
- iii. Base flood elevations and designated floodway boundaries on FIRMs and in Flood Insurance Studies, ("FISs") shall take precedence over base flood elevations and floodway boundaries by any other sources if such sources show reduced floodway widths and/or lower base flood elevations.

- iv. Other sources of data shall be reasonably used if such sources show increased base flood elevations and/or larger floodway areas than are shown on FIRMs and in FISs.
- v. If a Preliminary Flood Insurance Rate Map and/or a Preliminary Flood Insurance Study has been provided by FEMA:
 - (A) Upon the issuance of a Letter of Final Determination by FEMA, the preliminary flood hazard data shall be used and shall replace the flood hazard data previously provided from FEMA for the purposes of administering these regulations.
 - (B) Prior to the issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data shall be deemed the best available data pursuant to Section 8.1(e) and used where no base flood elevations and/or floodway areas are provided on the effective FIRM.
 - (C) Prior to issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data is permitted where the preliminary base flood elevations or floodway areas exceed the base flood elevations and/or designated floodway widths in existing flood hazard data provided by FEMA. Such preliminary data may be subject to change and/or appeal to FEMA.

(d) JURISDICTIONAL BOUNDARY CHANGES

The Town of Lovettsville shall pass a resolution acknowledging and accepting responsibility for enforcing floodplain ordinance standards prior to any boundary line adjustment containing identified flood hazards. If the FIRM for any area incorporated into Town through boundary line adjustment includes special flood hazard areas that have flood zones that have regulatory requirements that are not set forth in these regulations, Lovettsville shall prepare amendments to these regulations to adopt the FIRM and appropriate requirements, and submit the amendments to the governing body for adoption; such adoption shall take place at the same time as or prior to the date of the boundary line adjustment and a copy of the amended regulations shall be provided to Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and FEMA.

In accordance with the Code of Federal Regulations, Title 44 Subpart (B) Section 59.22 (a) (9) (v) all NFIP participating communities must notify the Federal Insurance Administration and optionally the State Coordinating Office in writing whenever the

boundaries of Lovettsville have been modified or the Town no longer has authority to adopt and enforce floodplain management regulations for a particular area.

In order that all Flood Insurance Rate Maps accurately represent the Lovettsville's boundaries, a copy of a map of Lovettsville suitable for reproduction, clearly delineating the new corporate limits or new area for which Lovettsville has assumed or relinquished floodplain management regulatory authority must be included with the notification.

(e) DISTRICT BOUNDARY CHANGES

The delineation of any of the Floodplain Districts may be revised by Lovettsville where natural or man-made changes have occurred and/or where more detailed studies have been conducted or undertaken by the U. S. Army Corps of Engineers or other qualified agency, or an individual documents the need for such change. However, prior to any such change, approval must be obtained from the Federal Emergency Management Agency.

(f) INTERPRETATION OF DISTRICT BOUNDARIES

Initial interpretations of the boundaries of the Floodplain Districts shall be made by the Board of Zoning Appeals, on appeal from a determination by the Zoning Administrator, or, on original application by the landowner, with the recommendation of the Zoning Administrator, in accordance with the provisions of Virginia Code sections 15.2-2308 et seq. and Chapter/Article 12 (Board of Zoning Appeals).

(g) SUBMITTING TECHNICAL DATA

Lovettsville's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, Lovettsville shall notify the Federal Emergency Management Agency (FEMA) of the changes by submitting technical or scientific data. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and flood plain management requirements will be based upon current data.

(h) LETTERS OF MAP REVISION

When development in the floodplain causes a change in the base flood elevation, Lovettsville, must notify FEMA by applying for a Conditional Letter of Map Revision or a Letter of Map Revision.

Examples:

1. Any development that causes a rise in the base flood elevations within the floodway.
2. Any development occurring in Zones A1-30 and AE without a designated floodway, which will cause a rise of more than one foot in the base flood elevation.

3. Alteration or relocation of a stream (including but not limited to installing culverts and bridges) *44 Code of Federal Regulations §65.3 and §65.6(a)(12)*

8.3 ESTABLISHMENT OF ZONING DISTRICTS

(a) DESCRIPTION OF SPECIAL FLOOD HAZARD DISTRICTS

(i) Basis of Districts

The various special flood hazard districts shall include the SFHAs. The basis for the delineation of these districts shall be the FIS and the FIRM for Lovettsville prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated July 5, 2001, and any subsequent revisions or amendments thereto.

Lovettsville may identify and regulate local flood hazard or ponding areas that are not delineated on the FIRM. These areas may be delineated on a "Local Flood Hazard Map" using best available topographic data and locally derived information such as flood of record, historic high water marks or approximate study methodologies.

The boundaries of the SFHA Districts are established as shown on the FIRM which is declared to be a part of this ordinance and which shall be kept on file at the Lovettsville Town Hall.

1. The **Floodway District** is in an **AE Zone** and is delineated, for purposes of this ordinance, using the criterion that certain areas within the floodplain must be capable of carrying the waters of the one percent annual chance flood without increasing the water surface elevation of that flood more than one (1) foot at any point. The areas included in this District are specifically defined in Table 5 of the above-referenced FIS and shown on the accompanying FIRM.

The following provisions shall apply within the Floodway District of an AE zone:

- a. Within any floodway area, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment will not result in any increase in flood levels within Lovettsville during the occurrence of the base flood discharge. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently-accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Zoning Administrator.

Development activities which increase the water surface elevation of the base flood may be allowed, provided that the applicant first applies – with the Lovettsville's endorsement – for a Conditional Letter of Map Revision (CLOMR), and receives the approval of the Federal Emergency Management Agency.

If Section 8.3 (a) (i) (1) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article 4.

- b. The placement of manufactured homes (mobile homes) is prohibited, except in an existing manufactured home (mobile home) park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring, elevation, and encroachment standards are met.
2. The **AE, or AH Zones** on the FIRM accompanying the FIS shall be those areas for which one-percent annual chance flood elevations have been provided and the floodway has **not** been delineated. The following provisions shall apply within an AE or AH zone:

Until a regulatory floodway is designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within the areas of special flood hazard, designated as Zones A1-30 and AE or AH on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the Lovettsville.

Development activities in Zones A1-30 and AE or AH, on the Lovettsville FIRM which increase the water surface elevation of the base flood by more than one foot may be allowed, provided that the applicant first applies – with the Lovettsville’s endorsement – for a Conditional Letter of Map Revision, and receives the approval of the Federal Emergency Management Agency.

3. The **A Zone** on the FIRM accompanying the FIS shall be those areas for which no detailed flood profiles or elevations are provided, but the one percent annual chance floodplain boundary has been approximated. For these areas, the following provisions shall apply:

The Approximated Floodplain District shall be that floodplain area for which no detailed flood profiles or elevations are provided, but where a one hundred (100)-year floodplain boundary has been approximated. Such areas are shown as Zone A on the maps accompanying the FIS. For these areas, the base flood elevations and floodway information from federal, state, and other acceptable sources shall be used, when available. Where the specific one percent annual chance flood elevation cannot be determined for this area using other sources of data, such as the U. S. Army Corps of Engineers Floodplain Information Reports, U. S. Geological Survey Flood-Prone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this base flood elevation. For development proposed in the approximate floodplain the applicant must use technical methods that correctly reflect currently accepted non-detailed technical concepts, such as point on boundary, high water marks, or detailed methodologies hydrologic and hydraulic analyses. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Zoning Administrator.

The Zoning Administrator reserves the right to require a hydrologic and hydraulic analysis for any development. When such base flood elevation data is utilized, the lowest floor shall be elevated to at least one foot above base flood elevation.

During the permitting process, the Floodplain Administrator shall obtain:

- 1) The elevation of the lowest floor (including the basement) of all new and substantially improved structures; and,
- 2) if the structure has been flood-proofed in accordance with the requirements of this article, the elevation (in relation to mean sea level) to which the structure has been flood-proofed.

Base flood elevation data shall be obtained from other sources or developed using detailed methodologies comparable to those contained in a FIS for subdivision proposals and other proposed development proposals (including manufactured home parks and subdivisions) that exceed fifty lots or five acres, whichever is the lesser.

4. The **AO Zone** on the FIRM accompanying the FIS shall be those areas of shallow flooding identified as AO on the FIRM. For these areas, the following provisions shall apply:
 - a. All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated to or above the flood depth specified on the FIRM, above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM. If no flood depth number is specified, the lowest floor, including basement, shall be elevated no less than two feet above the highest adjacent grade.
 - b. All new construction and substantial improvements of non-residential structures shall
 - 1) have the lowest floor, including basement, elevated to or above the flood depth specified on the FIRM, above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM. If no flood depth number is specified, the lowest floor, including basement, shall be elevated at least two feet above the highest adjacent grade; or,
 - 2) together with attendant utility and sanitary facilities be completely flood-proofed to the specified flood level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
 - c. Adequate drainage paths around structures on slopes shall be provided to guide floodwaters around and away from proposed structures.
5. **Shaded Zone X**, on the FIRM accompanying the FIS, shall be for those areas that have a 0.2% probability of flooding every year (also known as the "500-year floodplain"). Properties in Shaded Zone X are considered to be at moderate risk of flooding under the National Flood Insurance Program.
6. **Unshaded Zone X** are areas that are **above** the 0.2% flood elevation. Properties in unshaded Zone X are considered to be at low risk of flooding under the National Flood Insurance Program.

(b) OVERLAY CONCEPT

The Floodplain Districts described above shall be overlays to the existing underlying districts as shown on the Official Zoning Ordinance Map, and as such, the provisions for the floodplain districts shall serve as a supplement to the underlying district provisions.

If there is any conflict between the provisions or requirements of the Floodplain Districts and those of any underlying district, the more restrictive provisions and/or those pertaining to the floodplain districts shall apply.

In the event any provision concerning a Floodplain District is declared inapplicable as a result of any legislative or administrative actions or judicial decision, the basic underlying provisions shall remain applicable.

8.4 DISTRICT PROVISIONS

(a) PERMIT AND APPLICATION REQUIREMENTS

(i) Permit Requirement

All uses, activities, and development occurring within any floodplain district, including placement of manufactured homes, shall be undertaken only upon the issuance of a zoning permit. Such development shall be undertaken only in strict compliance with the provisions of this Ordinance and with all other applicable codes and ordinances, as amended, such as the Virginia Uniform Statewide Building Code (VA USBC) and the Lovettsville Subdivision Regulations. Prior to the issuance of any such permit, the Zoning Administrator shall require all applications to include compliance with all applicable state and federal laws and shall review all sites to assure they are reasonably safe from flooding. Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system.

(ii) Site Plans and Permit Applications

All applications for development within any floodplain district and all zoning permits for new construction and substantial improvements issued for the floodplain shall incorporate the following information:

1. The elevation of the Base Flood at the site.
2. The elevation of the lowest floor (including basement)
3. For structures to be flood-proofed (non-residential only), the elevation to which the structure will be flood-proofed.
4. Topographic information showing existing and proposed ground elevations.

(b) GENERAL STANDARDS

The following provisions shall apply to all permits:

- (i) New construction and substantial improvements shall be according to the VA USBC, and anchored to prevent flotation, collapse or lateral movement of the structure.
- (ii) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state anchoring requirements for resisting wind forces.
- (iii) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (iv) New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
- (v) Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities, including duct work, shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (vi) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- (vii) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
- (viii) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
 - a. In addition to provisions (i) to (viii) above, in all special flood hazard areas, the additional provisions shall apply:
- (ix) Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within this jurisdiction a permit shall be obtained from the U. S. Corps of Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission (a joint permit application is available from any of these organizations). Furthermore, in river areas, notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management), other required agencies, and the Federal Emergency Management Agency.
- (x) The flood carrying capacity within an altered or relocated portion of any watercourse shall be maintained.

(c) ELEVATION AND CONSTRUCTION STANDARDS

In all identified flood hazard areas where base flood elevations have been provided in the FIS or generated by a certified professional in accordance with Section 8.3 (a) (i) (3) the following provisions shall apply:

- (i) Residential Construction

New construction or substantial improvement of any residential structure (including manufactured homes) in Zones A1-30, AE, AH and A with detailed base flood elevations shall have the lowest floor, including basement, elevated to at least one foot above the base flood elevation (BFE).

(ii) Non-Residential Construction

- a. New construction or substantial improvement of any commercial, industrial, or non-residential building (or manufactured home) shall have the lowest floor, including basement, elevated to at least one (1) foot above the base flood elevation (BFE). Buildings located in all A1-30, AE, and AH zones may be flood-proofed in lieu of being elevated provided that all areas of the building components below the elevation corresponding to the BFE plus one foot are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification, including the base flood level (in relation to mean sea level) to which such structures are flood-proofed, shall be maintained by the Zoning Administrator.

(iii) Space Below the Lowest Floor

In zones A, AE, AH, AO, and A1-A30, fully enclosed areas, of new construction or substantially improved structures, which are below the regulatory flood protection elevation shall:

- a. not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator).
- b. be constructed entirely of flood resistant materials below the regulatory flood protection elevation;
- c. include measures to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet the following minimum design criteria:
 - (1) Provide a minimum of two openings on different sides of each enclosed area subject to flooding.
 - (2) The total net area of all openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding.
 - (3) If a building has more than one enclosed area, each area must have openings to allow floodwaters to automatically enter and exit.

- (4) The bottom of all required openings shall be no higher than one (1) foot above the adjacent grade.
- (5) Openings may be equipped with screens, louvers, or other opening coverings or devices, provided they permit the automatic flow of floodwaters in both directions.
- (6) Foundation enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires openings as outlined above.

(iv) Standards for Manufactured Homes and Recreational Vehicles

- a. All manufactured homes placed, or substantially improved, on individual lots or parcels, must meet all the requirements for new construction, including the elevation and anchoring requirements in Section 8.4 (c) and (d):
- b. All recreational vehicles placed on sites must either
 - (1) be on the site for fewer than 180 consecutive days, be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions); or
 - (2) meet all the requirements for manufactured homes in Section 8.4 (iv) (a)

(d) STANDARDS FOR SUBDIVISION PROPOSALS

- (i) All subdivision proposals shall be consistent with the need to minimize flood damage;
- (ii) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
- (iii) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards, and
- (iv) Base flood elevation data shall be obtained from other sources or developed using detailed methodologies, hydraulic and hydrologic analysis, comparable to those contained in a Flood Insurance Study for subdivision proposals and other proposed development proposals (including manufactured home parks and subdivisions) that exceed fifty lots or five acres, whichever is the lesser.

(e) EXISTING STRUCTURES IN FLOODPLAIN AREAS

A structure or use of a structure or premises which lawfully existed before the enactment of these provisions, but which is not in conformity with these provisions, may be continued subject to the following conditions:

- A. Existing structures in the Floodway Area shall not be expanded or enlarged unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the proposed expansion would not result in any increase in the base flood elevation.
- B. Any modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use located in any floodplain areas to an extent or amount of less than fifty (50) percent of its market value shall conform to the VA USBC.
- C. Subject to Virginia Code section 15.2-2307, the modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use, regardless of its location in a floodplain area to an extent or amount of fifty (50) percent or more of its market value shall be undertaken only in full compliance with this ordinance and shall require the entire structure to conform to the VA USBC.

8.5 VARIANCES

Subject to the provisions of Virginia Code section 15.2-2309, variances shall be issued only upon (i) a showing of good and sufficient cause, (ii) after the Board of Zoning Appeals has determined that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) after the Board of Zoning Appeals has determined that the granting of such variance will not result in (a) unacceptable or prohibited increases in flood heights, (b) additional threats to public safety, (c) extraordinary public expense; and will not (d) create nuisances, (e) cause fraud or victimization of the public, or (f) conflict with local laws or ordinances.

While the granting of variances generally is limited to a lot size less than one-half acre, deviations from that limitation may occur. However, as the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases. Variances may be issued by the Board of Zoning Appeals for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the provisions of this section.

Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the criteria of this section are met, and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

In passing upon applications for variances, the Board of Zoning Appeals shall satisfy all relevant factors and procedures specified in other sections of the zoning ordinance and consider the following additional factors:

- (i) The danger to life and property due to increased flood heights or velocities

caused by encroachments. No variance shall be granted for any proposed use, development, or activity within any Floodway District that will cause any increase in the one hundred (100)-year flood elevation.

- (ii) The danger that materials may be swept on to other lands or downstream to the injury of others.
- (iii) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
- (iv) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
- (v) The importance of the services provided by the proposed facility to the community.
- (vi) The requirements of the facility for a waterfront location.
- (vii) The availability of alternative locations not subject to flooding for the proposed use.
- (viii) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- (ix) The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
- (x) The safety of access by ordinary and emergency vehicles to the property in time of flood.
- (xi) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
- (xii) The historic nature of a structure. Variances for repair or rehabilitation of historic structures may be granted upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- (xiii) Such other factors which are relevant to the purposes of this ordinance:
 - (1) If funds are available for such purposes, the Board of Zoning Appeals may refer any application and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for flood protection and other related matters.

- (2) Variances shall be issued only after the Board of Zoning Appeals has determined that the granting of such will not result in (a) unacceptable or prohibited increases in flood heights, (b) additional threats to public safety, (c) extraordinary public expense; and will not (d) create nuisances, (e) cause fraud or victimization of the public, or (f) conflict with local laws or ordinances.
- (3) Variances shall be issued only after the Board of Zoning Appeals has determined that the variance will be the minimum required to provide relief.
- (4) The Board of Zoning Appeals shall notify the applicant for a variance, in writing that the issuance of a variance to construct a structure below the one hundred (100)-year flood elevation (a) increases the risks to life and property and (b) will result in increased premium rates for flood insurance.
- (5) A record shall be maintained of the above notification as well as all variance actions, including justification for the issuance of the variances. Any variances that are issued shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.

8.6 FLOODPLAIN ORDINANCE DEFINITIONS

- A. Appurtenant or accessory structure - Accessory structures not to exceed 200 sq. ft.
- B. Base flood - The flood having a one percent chance of being equaled or exceeded in any given year.
- C. Base flood elevation - The Federal Emergency Management Agency designated one percent annual chance water surface elevation and the elevation determined per Section 4.3 The water surface elevation of the base flood in relation to the datum specified on Lovettsville's Flood Insurance Rate Map. For the purposes of this ordinance, the base flood is one hundred (100) year flood or 1% annual chance flood.
- D. Basement - Any area of the building having its floor sub-grade (below ground level) on all sides.
- E. Board of Zoning Appeals - The board appointed to review appeals made by individuals with regard to decisions of the Zoning Administrator in the interpretation of this ordinance.
- F. Development - Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.
- G. Elevated building - A non-basement building built to have the lowest floor elevated above the ground level by means of solid foundation perimeter walls, pilings, or columns (posts and piers).

- H. Encroachment - The advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.
- I. Existing construction - structures for which the “start of construction” commenced before the effective date of the FIRM or before January 1, 1975 for FIRMs effective before that date. “Existing construction” may also be referred to as “existing structures.”
- J. Flood or flooding –
1. A general or temporary condition of partial or complete inundation of normally dry land areas from
 - a. the overflow of inland or tidal waters; or,
 - b. the unusual and rapid accumulation or runoff of surface waters from any source.
 - c. mudflows which are proximately caused by flooding as defined in paragraph (1)(b) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
 2. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph 1 (a) of this definition.
- K. Flood Insurance Rate Map (FIRM) - an official map of Lovettsville, on which the Federal Emergency Management Agency has delineated both the special hazard areas and the risk premium zones applicable to Lovettsville. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).
- L. Flood Insurance Study (FIS) – a report by FEMA that examines evaluates and determines flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudflow and/or flood-related erosion hazards.
- M. Floodplain or flood-prone area - Any land area susceptible to being inundated by water from any source.
- N. Flood proofing - any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
- O. Floodway - The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.
- P. Freeboard - A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. “Freeboard” tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a

selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization in the watershed. When a freeboard is included in the height of a structure, the flood insurance premiums may be less expensive.

- Q. Highest adjacent grade - the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- R. Historic structure - Any structure that is
1. listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
 2. certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
 3. individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,
 4. individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either
 - a. by an approved state program as determined by the Secretary of the Interior; or,
 - b. directly by the Secretary of the Interior in states without approved programs.
- S. Hydrologic and Hydraulic Engineering Analysis – Analyses performed by a *licensed* professional engineer, in accordance with standard engineering practices that are accepted by the Virginia Department of Conservation and Recreation and FEMA, used to determine the *base flood*, other frequency floods, *flood elevations*, *floodway* information and boundaries, and *flood profiles*.
- T. Letters of Map Change (LOMC) - A Letter of Map Change is an official FEMA determination, by letter, that amends or revises an effective *Flood Insurance Rate Map* or *Flood Insurance Study*. Letters of Map Change include:

Letter of Map Amendment (LOMA): An amendment based on technical data showing that a property was incorrectly included in a designated *special flood hazard area*. A LOMA amends the current effective *Flood Insurance Rate Map* and establishes that a land as defined by meets and bounds or *structure* is not located in a *special flood hazard area*.

Letter of Map Revision (LOMR): A revision based on technical data that may show changes to *flood zones*, *flood elevations*, *floodplain* and *floodway* delineations, and planimetric features. A Letter of Map Revision Based on Fill (LOMR-F) is a determination that a *structure* or parcel of land has been elevated by fill above the *base flood elevation* and is, therefore, no longer exposed to *flooding* associated with the *base flood*. In order to qualify for this determination,

the fill must have been permitted and placed in accordance with to *Lovettsville's* floodplain management regulations.

Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed *flood* protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of *special flood hazard areas*. A CLOMR does not revise the effective *Flood Insurance Rate Map* or *Flood Insurance Study*.

- U. Lowest floor - The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Federal Code 44CFR §60.3.
- V. Manufactured home - A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days, but does not include a recreational vehicle.
- W. Manufactured home park or subdivision - a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
- X. New construction - For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after July 5, 2001 or after December 31, 1974, whichever is later], and includes any subsequent improvements to such structures. For floodplain management purposes, *new construction* means structures for which the *start of construction* commenced on or after the effective date of a floodplain management regulation adopted by Lovettsville and includes any subsequent improvements to such structures.
- Y. Post-FIRM structures - A structure for which construction or substantial improvement occurred after December 31, 1974 or on or after July 5, 2001 whichever is later.
- Z. Pre-FIRM structures - A structure for which construction or substantial improvement occurred on or before December 31, 1974 or before July 5, 2001.
- AA. Recreational vehicle - A vehicle which is
 - 1. built on a single chassis;
 - 2. 400 square feet or less when measured at the largest horizontal projection;
 - 3. designed to be self-propelled or permanently towable by a light duty truck; and,
 - 4. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.

- BB. Repetitive Loss Structure – A building covered by a contract for flood insurance that has incurred flood-related damages on two occasions during a 10-year period ending on the date of the event for which a second claim is made, in which the cost of repairing the flood damage, on the average, equaled or exceeded 25 percent of the market value of the building at the time of each flood event.
- CC. Shallow flooding area – A special flood hazard area with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
- DD. Special flood hazard area - The land in the floodplain subject to a one (1%) percent or greater chance of being flooded in any given year.
- EE. Start of construction - For other than new construction and substantial improvement, under the Coastal Barriers Resource Act (P.L. – 97-348), and subject to Virginia Code section 15.2-2307, means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of the construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
- FF. Structure - for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.
- GG. Substantial damage - Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
- HH. Substantial improvement - Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the *start of construction* of the improvement. This term includes structures which have incurred *substantial damage* regardless of the actual repair work performed. The term does not, however, include either:
1. any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or

2. any alteration of a *historic structure*, provided that the alteration will not preclude the structure's continued designation as an *historic structure*.
 3. Historic structures undergoing repair or rehabilitation that would constitute a substantial improvement as defined above, must comply with all ordinance requirements that do not preclude the structure's continued designation as a historic structure. Documentation that a specific ordinance requirement will cause removal of the structure from the National Register of Historic Places or the State Inventory of Historic places must be obtained from the Secretary of the Interior or the State Historic Preservation Officer. Any exemption from ordinance requirements will be the minimum necessary to preserve the historic character and design of the structure.
- II. Violation - the failure of a structure or other development to be fully compliant with Lovettsville's floodplain management regulations. Subject to Virginia Code section 15.2-2307, a structure or other development without the elevation certificate, other certifications, or other evidence of compliance is presumed to be in violation until such time as that documentation is provided.
- JJ. Watercourse - A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

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NONCONFORMING USES

9-1 CONTINUATION OF USE

If, at the time of enactment of this ordinance, any legal activity which is being pursued, or any lot or structure legally utilized, in a manner or for a purpose which does not conform to the provisions of this ordinance, such manner of use or purpose may be continued as herein provided.

- (a) If any change in title of possession, or renewal of a lease of any such lot or structure occurs, the use existing may be continued.
- (b) If any nonconforming use (structure or activity) is discontinued for a period exceeding two (2) years after the enactment of this ordinance, it shall be deemed abandoned and any subsequent use shall conform to the requirements of this ordinance.
- (C) Whenever a nonconforming structure, lot or activity has been changed to a more limited nonconforming use, such existing use may only be changed to an even more limited use.
- (d) Temporary seasonal nonconforming uses that have been in continual operation for a period to two (2) years or more prior to the effective date of this Ordinance shall be considered nonconforming uses for purposes of this article.

9-2 PERMITS

All nonconforming uses shall obtain a zoning permit within sixty (60) days after the adoption of this Ordinance. Such permits shall be issued promptly upon the written request of the Owner or operator of a nonconforming use.

The construction or use of a nonconforming building or land area for which a permit was properly issued prior to the adoption of this Ordinance may proceed, provided such building is complete within one (1) year, or such use of land is established within thirty (30) days after the effective date of this ordinance.

9-3 REPAIRS AND MAINTENANCE

On any building devoted in whole or in part to any nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs or on repair or replacement of nonbearing walls fixtures, wiring or plumbing, to an extent not exceeding fifty percent (50%) of the current content of the structure as it existed at the time of passage or amendment of this Ordinance shall not be increased. Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any structure or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

9-4 CHANGES IN DISTRICT BOUNDARIES

Whenever the boundaries of a district are changed, any uses of land or buildings which become nonconforming as a result of such change shall become subject to the provisions of this Article.

9-5 EXPANSION

A nonconforming activity may be extended throughout any part of a structure which was arranged or designed for such activity at the time of enactment of this Ordinance.

9-6 NONCONFORMING LOTS

Any lot of record at the time of the adoption of this Ordinance, which is less in area or width than the minimum required by this Ordinance, may be used when the requirements of the Board of Zoning Appeals regarding setbacks, side and rear yards are met.

9-7 RESTORATION OR REPLACEMENT

If a nonconforming structure or a conforming structure devoted to a nonconforming activity is destroyed or damaged in any manner, to the extent that the cost of restoration to its condition before the occurrence shall not exceed fifty percent (50%) of the cost of reconstructing the entire structure, it may be repaired or restored; provided that any such repair or restoration is started within six (6) months and completed within twelve (12) months from the date of partial destruction.

If the cost of restoration to its condition before the occurrence shall exceed fifty percent (50%) of the cost of reconstructing the entire structure, it may be repaired or restored only upon the issuance of a special permit by the Administrator with the approval of the Town Council.

In approving such permit, the Town Council shall consider the stated purpose for the establishment of the zoning district, in which the structure is located, the uses of the area immediately surrounding the structure in question, particularly the nonconforming uses, and the hardship which would result from a denial of the special permit. The permit shall include conditions as to the time within which the repair or restoration must be started and completed and may contain any other conditions regarding the repair and restoration which, on the opinion of the Town Council, shall be necessary to carry out the intent of this section.

The cost of land or any factors other than the cost of the structure are excluded in the determination of fair market value for the purpose of calculating the percent of damage.

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ADMINISTRATION AND ENFORCEMENT

10-1 TOWN COUNCIL

The Council of the Town of Lovettsville shall, under this Zoning Ordinance, have the following powers and duties:

- (a) To initiate, consider and make final decisions upon proposed amendments to these Zoning Ordinance regulations.
- (b) To initiate, consider, and make final decisions upon proposed amendments to the Official Zoning Map, including amendments to proffered conditions.
- (c) To consider and make decisions regarding conditional uses as specified by this Ordinance.
- (d) To establish fees, charges, and other expenses imposed by this Ordinance.
- (e) To appoint members of the Planning Commission and any other board or commission as now or may be required by the Zoning Ordinance.
- (f) To take all other steps necessary, including appropriate administration and legal actions in order to ensure the enforcement of these zoning regulations.
- (g) To hear and determine all appeals from the decision of the Zoning Administrator relating to proffered conditions.

10-2 PLANNING COMMISSION

The Planning Commission shall be composed of no fewer than five (5) members appointed by the Town Council. Four members, all of whom shall be residents of the Town and at least three of whom shall be owners of real property, and shall serve for a staggered term of four (4) years.

A member of the Town Council shall serve as a nonvoting member of the Planning Commission. The term of this member shall be coextensive with the term of office to which he/she has been elected or appointed, unless the Town Council, at the first regular meeting each year appoints another Council member to serve as their representative. Vacancies shall be filled by appointment for the unexpired term only. Members may be removed for malfeasance in office.

Notwithstanding the foregoing provision, a member of a local Planning Commission may be removed from office by the local governing body without limitation in the event that the Commission member is absent from any three consecutive meetings of the Commission, or is absent from any four meetings of the Commission within any 12 month period. In either such event, a successor shall be appointed by the governing body for the unexpired portion of the term of the member who has been removed.

The Planning Commission shall, under this Zoning Ordinance, have the following powers and duties:

- (a) To review zoning permit applications made by property owners and referred by the Zoning Administrator where a use is not specifically permitted under this Zoning Ordinance. In such cases the Planning Commission shall make its recommendations to the Town Council within sixty (60) days as to whether:
 - (i) To amend the Ordinance to allow the unrestricted use in the District;
 - (ii) To amend the Ordinance to allow the use with a conditional use permit;

- (iii) To amend the Ordinance by rezoning the district and hereby allow the use, or;
- (iv) To deny the use in the District. The Planning Commission may hold a separate public hearing or a joint public hearing, as provided by law, with the Town Council. If after sixty (60) days, no public hearing has been set or no recommendation has been made by the Planning Commission, the Town Council may assume the Planning Commission recommends approval of the application.
- (b) To review proposed changes and amendments to the Zoning Ordinance and make recommendations to the Town Council.
- (c) To review proposed changes and amendments to the Zoning Map, including amendments to proffered conditions and make recommendations to the Town Council.
- (d) To review and make recommendations regarding conditional uses as specified by this Ordinance.
- (e) To review and recommend changes to the Comprehensive Plan in accordance with the provisions of the Code of Virginia Section 15.2-2223 et seq.
- (f) To review and make recommendations on fees, charges, and other expenses imposed by this Ordinance.

10-3 ZONING ADMINISTRATOR

The Zoning Administrator shall report to the Town Manager and be appointed by resolution of the Town Council. In addition to those responsibilities specifically prescribed elsewhere in this Ordinance the Zoning Administrator shall have the following powers and duties:

- (a) Referrals. If, in any district established under this Ordinance a use is not specifically permitted and an application is made by a property owner to the Administrator for such use, the Administrator shall refer the application to the Planning Commission. The Planning Commission shall in turn make its recommendation to the Town Council within sixty (60) days.
- (b) Issue Zoning Permits. The Zoning Administrator shall, upon demonstration by the applicant that a proposed use or structure complies with all, applicable ordinance requirements, issue zoning permits.
- (c) Issue Sign Permits. The Zoning Administrator shall issue a sign permit for all signs requiring such a permit as provided in this ordinance,
- (d) Interpret and Maintain Zoning Ordinance. The Zoning Administrator shall provide written interpretations of this ordinance, including making conclusions of law and findings of facts with the concurrence of the Town Attorney, in connection with the administration, application and enforcement of the ordinance in specific cases, including the determination of rights under Virginia Code Section 15.2-2307 The Administrator shall maintain a true and accurate copy of this Ordinance, including all amendments and interpretations.
- (e) Interpret and maintain official Zoning Map. The Zoning Administrator shall interpret the Official Zoning Map as it relates to specific properties within the Town. The Zoning Administrator shall also maintain the Official Zoning Map by

indicating all rezoning and indicating proffered conditions associated with any such manning.

- (f) Enforce Ordinance. The Zoning Administrator shall conduct inspections of structures and properties to determine compliance with this Ordinance, and, in the case of violation, shall notify in writing the person or persons responsible specifying the nature of the violation and ordering appropriate corrective action, and shall bring such actions at law or in equity as he shall determine appropriate to ensure compliance with this ordinance.
- (g) Enforce Conditions. The Zoning Administrator shall administer and enforce conditions attached to any rezoning or to any permit issued under this ordinance.
- (h) Monthly Report. The Zoning Administrator shall prepare and submit a monthly report to the Council regarding the administration of this Ordinance, setting forth such information as may be of interest and value in advancing the purpose of this Ordinance.
- (i) The Zoning Administrator shall confirm that the applicant provides advance notification to adjacent and adjoining property owners of an application for Home Occupation Permits, Rezoning, Zoning Permit, Conditional Use Permit and/ or Conversion of Use Permit that has been received by the Town.

10-4 ZONING PERMITS

- (a) A Zoning Permit shall be required before any use may be substantially changed; substantial clearing grading or excavation may be commenced; and buildings or other substantial structures may be constructed, erected, moved or substantially altered. Improvements subject to the requirements of a Zoning Permit shall be classified as Major or Minor Improvements in accordance with the provisions of subsection (d) below.
- (b) The Zoning Permit application shall certify that the proposed project, as shown by the plans and specifications filed with the Zoning Administrator will be in compliance with the provisions of the Town of Lovettsville Zoning and Subdivision Ordinances and shall contain the signatures of the property owner of record and the applicant, if other than the property owner.
- (c) Any applicant for Zoning Permits shall, at the time of application, provide satisfactory evidence that all real estate taxes which have assessed against the property which is the subject of the application and all other Town charges due and owing from the property owner and applicant have been paid in full.
- (d) For the purposes of Zoning Permits, minor improvements shall include fences, decks, satellite "dish" antenna larger than twenty-four (24) inches, above ground swimming pool where no site grading is required, storage shed with an area of sixty-four (64) square feet or smaller, additions with an areas not exceeding sixty-four (64) square feet and other such minor improvements. Major improvements shall include new house construction, parking lots, garage, storage shed with an area exceeding sixty-four (64) square feet, additions exceeding sixty-four (64) square feet, all other swimming pools (above and in ground), and other such major improvements.
- (e) Any applicant for Zoning Permit for minor improvements shall submit with the Zoning Permit application a modified location plan drawn to scale, showing the actual shape and dimensions of the lot, the exact location and size and shape of

existing structures and the proposed location, shape and size of the minor improvement. The applicant shall provide any additional information required by the Zoning Administrator with regard to the lot, existing structures and the proposed minor improvement as may be necessary for the enforcement of this Ordinance.

- (f) Any application for Zoning Permit for major improvements shall submit with the Zoning Permit application an acceptable location plan drawn at a scale or not more than one (1) inch to fifty (50) feet. Such location plan shall include the following information:
 - (i) The name of the property owner, the name of the surveyor or engineer who prepared the plan, zoning, and present use of adjacent parcels; departing property lines, minimum setback lines, north arrow: the source of the boundary; the source of the topography, date of the drawing and dates of any revisions.
 - (ii) Existing topography for the site and proposed grading supplemented by spot elevations as necessary to demonstrate adequate drainage. Any modification of existing drainage patterns shall be noted on the plan.
 - (iii) Location and dimensions of all existing and proposed improvements.
 - (iv) Provision and schedule for the adequate control of storm water including the location, size, type and grade of all ditches, swales and other improvements, certification that the proposed construction will not obstruct, interfere with or substantially change the existing drainage patterns to the detriment of neighboring lands.
 - (v) Provision for adequate erosion and sedimentation control including stabilization of the site at the completion of construction.
 - (vi) Any other information regarding the subject property or adjoining properties as may be necessary for the enforcement of this Ordinance.
- (g) One copy of the plans shall be returned to the applicant together with the approved or disapproved Zoning Permit.
- (h) Where a site plan has been submitted to and approved by the Planning Commission in accordance with the provisions of Section 3.5.5 of the Subdivision Ordinance, one copy of the approved site plan may be submitted for the plans required in subsection (f) above.
- (i) Upon receipt, a Zoning Permit shall be posted in a prominent place on the premises prior to and during the period of erection, reconnection enlargement moving or demolition.
- (j) Before a Zoning Permit is issued, the plans and intended use shall demonstrate conformity in all respects to the provisions of this Ordinance. Zoning permits shall be issued within ten (10) days of receipt of a complete application, provided the proposed construction conforms to this Ordinance.
- (k) A Zoning Permit shall expire automatically within one year of the date of

issuance or the use authorized or substantial work required has not commenced. If, after work is begun, such work is suspended for a period of one year, the zoning permit shall automatically expire. Exterior construction of structures shall be completed within one year of the date of issuance of the permit. On application by the permit holder, the Zoning Administrator may extend the permit without charge for additional periods not to exceed six months, if,

- (i) the permit has not yet expired;
 - (ii) the permit recipient has proceeded with due diligence and in good faith; and
 - (iii) conditions have not substantially changed.
- (l) Water and sewer connections, if available, may be approved at the time zoning permits are issued upon receipt of completed applications and payment of all fees therefore.

10-5 ZONING CERTIFICATES

Zoning Certificates shall be issued in accordance with the provisions of this Section.

- (a) No person shall occupy or use any newly constructed, reconstructed, moved, altered or enlarged building, except detached single family dwellings, without first making proper application for and receiving a Zoning Certificate issued by the Zoning Administrator. If, due to circumstances beyond the applicants control, the applicant is unable to meet all of the standards and requirements of this Ordinance and the health, welfare and safety of the citizens of the Town will not be adversely affected, the Zoning Administrator may approve a Temporary Zoning Certificate authorizing use of the structure for such period of time as in his or her reasonable discretion is appropriate provided that the applicant offers reasonable assurances, including a cash or surety bond when appropriate, that the standards and requirements will be met before expiration of the Temporary Zoning Certificate.
- (b) New Use. The Zoning Certificate shall certify that the completed improvement or relocation has been inspected by the Zoning Administrator and has been found to be in compliance with the provisions of this Ordinance
- (c) Confirmation of Existing Use. Upon written request from the owner or tenant, the Zoning Administrator shall issue or reissue a Zoning Certificate for any building or premises existing at the effective date of this Ordinance, certifying after inspection the extent and kind of use made of the building or premises and whether such use conforms to the provisions of this Ordinance. At the time of conveyance, a Zoning Certificate may be issued or reissued by the Zoning Administrator to a new owner if the use of the property is substantially the same. If the use is different however, a new application must be filed and a determination shall be made at that time if such use conforms to this Ordinance.
- (d) Conversion of Use. A new Zoning Certificate shall be secured from the Zoning Administrator prior to the reoccupation or reuse of any lot, building or structure in previously established use when such reoccupation or reuse is of a different character or type than that of the previously established use. The Zoning Certificate shall state that the extent and kind of use proposed to be made of the lot building or structure conforms to the provisions of this Ordinance.

- (e) Any applicant for Zoning Certificate shall, at the time of application, provide satisfactory evidence that all real estate taxes which have assessed against property which is the subject of the application and all other Town charges due and owing from the property owner and applicant have been paid
- (f) Zoning Certificates shall be issued within three days of proper application provided the list or building conforms to this ordinance.

10-6 CERTIFICATE OF OCCUPANCY

For any project for which a site plan has not been required and for which a Loudoun County Building Permit has been issued, the applicant shall request zoning approval for a Certificate of Occupancy upon satisfactory completion of all work including the installation of all applicable improvements as required by this ordinance and the Subdivision Ordinance. Applicants shall at the time of request, provide satisfactory evidence that all real estate taxes which have assessed against the property which is the subject of the application and all other Town charges due and owing from the property owner and applicant have been paid.

The applicant shall submit to the Zoning Administrator one copy of an as-built house/building location plan, prepared by a certified surveyor or registered engineer, and such plan shall show the following information:

- (a) The dimensions of the lot or parcel, the boundary lines thereof, and the area of land contained therein.
- (b) The location, dimensions and height of any building, structure or addition.
- (c) The perpendicular distance from all property lines to the nearest point of each building, structure or addition, shown to the nearest tenth of a foot (0.1 foot).
- (d) The existing and intended use of each building or structure or part thereof, including the number of dwelling units within a dwelling.
- (e) The location and configuration of any off-street parking space(s), the number of spaces provided, and information as to the surfacing of such areas.
- (f) The existence of any area designated as one hundred (100) year floodplain as per the applicable FEMA Flood Insurance Rate Map.
- (g) The signature and certification of the preparer of the plot.

10-7 CONDITIONAL USE PERMIT

- (a) An applicant for a Conditional Use Permit shall have the burden of establishing that the proposed use is consistent with the public health, convenience, safety, and public welfare of the surrounding community. The Conditional Use Permit shall be subject to such conditions as the Town Council deems necessary to carry out the intent of this Ordinance.
- (b) Written application for a conditional use may be made by any property owner, tenant, department, board or bureau of any government.
- (c) Applicants for Conditional Use Permits, at the time of application, provide satisfactory evidence that all real estate taxes which have assessed against the property which is the subject of the application and all other Town charges due and owing from the property owner and applicant have been paid.

- (d) The application shall be filed with the Zoning Administrator on forms provided by the Town.
- (e) The applicant shall submit fifteen copies of a concept plan, drawn to a scale not greater than one inch to fifty (50) feet containing the following information. The Zoning Administrator may waive the submission of one or more of the requirements if he determined that proper evaluation of the application does not require such information.
 - (i) Boundaries of the entire property and total area of the property in square feet and acres.
 - (ii) Location of all existing and proposed structures (including, but not limited to lighting, signs and buildings)
 - (iii) Location and distance of all off-site structures within fifty (50) feet of the property.
 - (iv) All required minimum yards and the distances of all existing and proposed structures to the lot lines
 - (v) Proposed means of ingress and egress to the property from a public street.
 - (vi) Parking spaces, existing and/or proposed, indicating minimum distance from the nearest property line.
 - (vii) Existing zoning designation and use of subject and adjacent properties.
- (f) The applicant shall submit a written statement describing the proposed use and the hours of operation.
- (g) Council may require satisfactory evidence and guarantee or bond that the conditions stipulated will be and will continue to be complied with.
- (h) The Council may impose conditions and safeguards as deemed necessary for the protection of the general welfare and individual property rights, and to ensure compliance with the intent and objectives of this Ordinance.
- (i) The procedures for approval of a conditional use permit shall be the same as those prescribed for zoning map amendments. The area designated for an approved conditional use shall be noted on the district maps by means of a special symbol.
- (j) A Public Hearing shall be held prior to either the Planning Commission or Town Council acting on any application for a Conditional Use Permit.
- (k) Upon receipt of a properly filed Conditional Use Permit request or petition, the Zoning Administrator shall set a time and place for a Public Hearing by the Planning Commission on said Conditional Use Permit and direct that public notice be given as required by §15.2-2204 of the Code of Virginia. Costs of any notice required shall be taxed to the applicant.
- (l) Applicant shall be responsible for notifying all adjacent and adjoining property owners pursuant to the Code of Virginia of the date, time, subject and location of the Public Hearing. Costs of any notice required shall be taxed to the applicant.
- (m) Following the Public Hearing the Planning Commission shall forward the proposed Conditional Use Permit to the Council together with its

recommendation and a statement fully setting forth its reasons for such recommendations. Failure of the Planning Commission to make a recommendation within ninety (90) days after first such meeting of the Commissioners subsequent to receipt of a proposed recommendation or such shorter period as may be set by the Council shall be deemed approval by the Commission of such Conditional Use.

- (n) The Town Council may hold a separate Public Hearing on said application or may hold a joint Public Hearing with the Planning Commission with required notice given in accordance with by §15.2-2204 of the Code of Virginia.

10-8 AMENDMENTS

Whenever the public necessity, convenience, general welfare or good zoning practice requires, the Council may amend, supplement, or change the regulations in the Zoning Ordinance, or the zoning boundaries or classification of property on the Zoning Map, in conformity with the provisions of Section 15.2-2286.A.7. of the Code of Virginia.

- (a) Amendments to the text of the Ordinance and/or changes in the zoning boundaries or classification of properties shown on the Zoning Map may be initiated by resolution of the Town Council, motion of the Planning Commission, or by petition of the owner, contract purchaser with the owner's written consent, or the owner's agent therefore, of the property which is the subject of the proposed zoning map amendment, addressed to the Town Council.
- (b) Petitions for Zoning Map Amendments shall be on a standard form provided by the Town.
- (c) Applicants shall, at the time of request provide satisfactory evidence that all real estate taxes which have assessed against the property which is the subject of the application and all other Town charges due and owing from the property owner and applicant have been paid
- (d) The conditional zoning provisions set forth in the Code of Virginia Sections 15.2-2303 and 15.2-2299 through 15.2-2302, as applicable, are incorporated as part of this ordinance as if set out fully herein. Proposed conditions shall be proffered in writing in advance of the public hearing before the Town Council by the owner of the property which is the subject of the Zoning Map Amendment.

After adoption, any amendment of the conditions may be made only in accordance with the requirements imposed in this ordinance and in Chapter 22 of Title 15.2 of the Code of Virginia.

- (e) Upon receipt of a properly filed amendment request or petition, the Zoning Administrator shall set a time and place for a public hearing by the Planning Commission on said amendment and direct that the public notice be given as required by §15.2-2204 of the Code of Virginia. Costs of any notice required shall be taxed to the applicant.
- (f) Applicant shall be responsible for notifying all adjacent and adjoining property owners pursuant to the Code of Virginia of the date, time, subject and location of the Public Hearing. Costs of any notice required shall be taxed to the applicant.
- (g) Following the Public Hearing the Planning Commission shall forward the proposed amendment to the Council together with its recommendation and a statement fully setting forth its reasons for such recommendations. Failure of the

Planning Commission to make a recommendation within ninety (90) days after first such meeting of the Commissioners subsequent to receipt of a proposed recommendation or such shorter period as may be set by the Council shall be deemed approval by the Commission of such amendment.

- (h) The Town Council may hold a separate Public Hearing on said application or may hold a joint public hearing with the Planning Commission with required notice given in accordance with by §15.2-2204 of the Code of Virginia.
- (i) Council Action. The Council may approve or deny an amendment as submitted, rezone to a classification other than that requested by the applicant (provided that all notice requirements have been met), or may rezone only a portion of the area proposed for rezoning in the original petition.
- (j) Limitation on Filing New Petition After Denial. No new petition concerning any or all of the same properly shall be filed within 12 months of the date of denial by the Council of a substantially identical petition.
- (k) Withdrawal of Petition Any petition pursuant to Sections 10-8(a) and 10-7 may be withdrawn upon written request by the applicant any time upon payment in full of any outstanding permit or review fees and advertising costs, as applicable.

10-9 VIOLATION AND PENALTY

- (a) Any building erected or improvements constructed contrary to any provision of this ordinance or any use of any building or land which is constructed, operated or maintained contrary to any provisions of this ordinance or contrary to any plan approved under the provisions of this ordinance shall be unlawful.
- (b) Any person, whether owner, lessee, principal, agent, employee or otherwise, who violates any of the provisions of this Ordinance, or permits any such violations, or fails to comply with any of the requirements hereof or who erects any building or uses any building or land in violation of the provisions of this Ordinance shall be subject to the enforcement provisions of this Section.

In acting to enforce this Ordinance, the Zoning Administrator, or other authorized employee or official of the Town shall act in the name of the Town of Lovettsville. The Zoning Administrator shall have all necessary authority on behalf of the Town Council to administer and enforce the Zoning Ordinance, including the ordering in writing of the remedying of any condition found in violation of this ordinance, and the bringing of legal action to insure compliance with the Ordinance, including injunction, abatement or other appropriate action or proceeding.

- (c) Criminal Violations and Sanctions

Any violation of the provisions of this Ordinance that results in physical harm or injury to any person shall be deemed a Class 2 criminal misdemeanor, and upon conviction thereof, shall be punishable by a fine of not more than \$1,000 for each separate offense. Failure to remove or abate a zoning violation within the time specified in an order by the Zoning Administrator shall constitute a separate violation, and any such failure during any succeeding ten day period shall constitute a separate offense punishable by a fine of not less than \$100 not more than \$1,000.

- (d) Civil Violations and Penalties

Any violations of the provisions of this Ordinance other than those set forth in Section 10-9(c) shall be deemed a civil violation and upon an admission of liability or finding of liability, shall be punishable by a fine of \$200 for the first charge and \$500 for each additional charge. Each day during which the violation is found to have existed shall constitute a separate offense. However, specified violations resulting from the same operative set of facts shall not be charged more frequently than once in any ten-day period, and a series of violations arising from the same operative set of facts shall not result in civil penalties which exceeds \$5,000. Nothing in this section shall be construed as to prohibit the Town Council from bringing legal action to remedy any violation by injunction, abatement or other appropriate action or proceeding, as authorized by law. The provisions of Section 15.2-2209 of the Code of Virginia regarding issuance of civil summons, the opportunity to make all appearance in person or by mail, waiver or trial and admission of liability, right of trial and appeal are hereby adopted by reference, mutatis mutandis.

- (e) After having served a notice of violation any person committing or permitting a violation of the Zoning Ordinance provisions as listed in Section 10-9(d) and if such violation is not ceased within such reasonable time as is specified in such notice, the Zoning Administrator shall cause two (2) copies of a summons and or ticket to be personally served upon such person or posted in a conspicuous location at the site of the violation. If a person complies in writing to a notice of violation, and agrees to cease said violation, no further fines shall be levied after the date of such agreement, provided such agreement is complied with.
- (f) The summons/ticket shall provide that any person summoned for a violation may elect to pay the civil penalty by making an appearance in person or in writing by mail to the Town at least seventy-two (72) hours prior to the time and date fixed for trial, and by such appearance, may enter a Waiver of Trial, admit liability, and pay the civil penalty established for the offense charged. Such summons shall provide that a signature to an admission of liability shall have the same force and effect as a judgment of court however an admission of liability or finding of liability shall not be deemed a criminal conviction for any purpose.
- (g) If a person charged with a violation does not elect to enter a waiver of trial and admit liability, the violation shall be tried in the general district courts in the same manner and with the same right of appeal as provided bylaw.
- (h) Permit Revocation:
 - (i) Any permit issued under authority of this ordinance may be revoked by: the permit-issuing authority in accordance with the provisions of this section, if the permit recipient fails to develop or maintain the property in accordance with the plans approved the requirements of this ordinance or any additional requirements lawfully imposed by the permit-issuing authority.
 - (ii) All notice and hearing requirements applicable to granting the permit in question shall be complied with before the permit may be revoked. The notice shall inform the permit recipient of the alleged grounds for revocation.
 - (iii) Any permit for which no notice or hearing was required before issuance may be revoked after ten days written notice of intent to revoke the

permit which shall state the reasons for the proposed revocation and inform the permit recipient of the opportunity for an informal hearing before the Zoning Administrator at which he can contest the truth or adequacy of the reasons for revocation.

- (iv) No person shall use land building in the manner authorized by any zoning, sign, conditional, or other permit after the permit has been revoked in accordance with this section
- (v) Other Permits. Whenever the Zoning Administrator has cited any project for violation of this ordinance or of the Subdivision Ordinance or the Administrator or the Council has revoked any permit in accordance with the provisions of Section 10-9(f), no further permits shall be issued for such project until the violations have been remedied except for any permit required to affect such remedy.

10-10 WALL CHECK PLAT

The erection of a building (see major improvement, as defined in Section 10-4 (d)), shall not proceed beyond a point in the construction process where the placement of the corners of a concrete slab or a poured foundation (whichever is applicable in establishing the exact location of all corners of the building) until the corner locations are indicated on a plat (known as a "wall check plat") by a certified land surveyor and submitted and approved by the Zoning Administrator.

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FEES

11-1 FEES

Fees and charges to be paid to the Town of Lovettsville upon application shall be as follows:

- (a) Reasonable fees may be charged to applicants sufficient to cover the costs of administration, inspection, publication of notice and similar matters for such permits as required for building location, major and minor improvements, signs, conditional use permits, zoning amendments (zoning map amendments, zoning concept plans), variances requiring a public hearing and home occupation permits. The amount of the fees charged shall be established by ordinance of the Town Council and known as the Schedule of Fees, which shall be filed with the Town Clerk.
- (b) Fees shall be tendered with submission of a signed application or notice of appeal.

11-2 ADOPTION OF FEES

All fees shall be adopted on an annual basis by the Town Council in conjunction with the annual budget process.

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BOARD OF ZONING APPEALS

12-1 BOARD OF ZONING APPEALS

- (a) A Board consisting of three (3) or five (5) members, who are residents of the Town of Lovettsville, shall be appointed by the Town Council of Lovettsville. The Board may receive compensation as authorized by the Council. Appointments for vacancies occurring otherwise than by expiration of term shall be only for the portion of the term.
- (b) The term of office shall be for five (5) years, except that original appointments shall be made for such terms that the term of one member shall expire each year. One of the appointed members may be an active member of the Planning Commission of the Town.
- (c) Members may be removed for cause by the appointing authority upon writing charges and after a public hearing.
- (d) Any member of the Board shall be disqualified to act upon a matter before the Board with respect to property in which the member has an interest.
- (e) The Board shall choose annually its own Chairman and Vice-Chairman who shall act in the absence of the Chairman.

12-2 POWERS OF THE BOARD OF ZONING APPEALS

The Board of Zoning Appeals shall have the following powers and duties:

- (a) To hear and decide appeals from any order, requirement, decision, or determination made by an administrative officer or the Planning Commission in the administration or enforcement of this article or any ordinance adopted pursuant thereto. The decision on such appeal shall be based on the Board's judgment of whether the administrative officer was correct. The Board shall consider the purpose and intent of any applicable ordinances, laws and regulations in making its decision.
- (b) To authorize, upon appeal or original application in specific cases, such variance from the terms of the ordinance as will not be contrary to the public interest when, owing to special conditions, a literal enforcement of the provisions will result in unnecessary hardship; provided, that the spirit of the ordinance shall be observed and substantial justice done, as follows.
 - (i) When a property owner can show that his property was acquired in good faith and where by reason of the exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the effective date of the ordinance, or where by reason of exceptional topographic conditions or other extraordinary situation or condition of the piece of property, or of the condition, situation, or development of property immediately adjacent thereto, the strict application of the terms of the ordinance would effectively prohibit or unreasonably restrict the utilization of the property or where the board is satisfied, upon the evidence heard by it, that the granting of such variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant; provided, that all variances shall be in harmony with the intended spirit and purpose of the ordinance.

- (ii) No such variance shall be authorized by the Board unless it finds:
 - (A) That the strict application of the ordinance would produce undue hardship relating to the property
 - (B) That such hardship is not shared generally by other properties in the same zoning district and the same vicinity; and
 - (C) That the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.
- (iii) No such variance shall be authorized except after notice and hearing as required by Section 15.2-2204 of the Code of Virginia, as amended. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the Board may give such notice by first-class mail rather than by registered or certified mail.
- (iv) No variance shall be authorized unless the board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the, formulation of a general regulation to be adopted as an amendment to the ordinance.
- (v) In authorizing a variance, the Board may impose such conditions regarding the location, character and other features of the proposed structure for use at it may deem necessary in the public interest, and may require a guarantee or bond to insure that the conditions imposed are being and will continue to be complied with.
- (c) To hear and decide appeals from the decision of the Zoning Administrator after notice and hearing as provided by § 15.2-2204 of the Code of Virginia. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the Board may give such notice by first-class mail rather than by registered or certified mail.
- (d) To hear and decide applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary. After notice to the owners of the property affected by the question, and after public hearing with notice as required by Section 15.2-2204 of the Code of Virginia, the Board may interpret the map in such way as to carry out the intent and purpose of the ordinance for the particular section or district in question. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail. The Board shall not have the power to change substantially the locations of district boundaries as established by ordinance.
- (e) No provision of this section shall be construed as granting any board the power to rezone property or to base board decisions on the merits of the purpose and intent of local ordinances duly adopted by the governing body.

- (f) The Board by resolution may fix a schedule of regular meetings, and may also fix the day or days to which any meeting shall be continued if the Chairman, or Vice-Chairman if the chairman is unable to act, finds and declares that weather or other conditions are such that it is hazardous for members to attend the meeting. Such finding shall be communicated to the members and the press as promptly as possible. All hearings and other matters previously advertised for such meeting of the Board of Appeals in accordance with Section 15.2-2312 shall be conducted at the continued meeting and no further advertisement is required.

12-3 RULES AND REGULATIONS

- (a) The Board of Zoning Appeals shall adopt such rules and regulations as it may consider necessary:
- (b) The meeting of the Board shall be held at the call of its Chairman or at such time as a quorum of the Board may determine.
- (c) The Chairman or, in his absence, the Vice-Chairman may administer oaths and compel the attendance of witnesses.
- (d) The Board shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact. It shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record.
- (e) All meetings of the Board shall be open to the public, except as otherwise provided by law.
- (f) A quorum shall be at least two (2) members when the Board is comprised of three persons and at least three (3) members when the Board is comprised of five (5) persons.
- (g) A favorable vote of two (2) members (when the Board is comprised of three persons) or three (3) members (when the Board is comprised of five (5) persons) shall be necessary to reverse any order, requirement, decision, or determination of any administrative official or to decide in favor of the applicant on any matter upon which the Board is required to pass.

12-4 APPLICATIONS FOR VARIANCES

Applications for variances may be made by any property owner, tenant, government official, department, board or bureau. Applications shall be made to the zoning administrator in accordance with rules adopted by the board. The application and accompanying maps, plans or other information shall be transmitted promptly to the secretary of the board who shall place the matter on the docket to be acted upon by the board. No variances shall be authorized except after notice and hearing as required by Section 15.2-2204 of the Code of Virginia. The Zoning Administrator shall also transmit a copy of the application to the local planning commission which may send a recommendation to the board or appear as a party at the hearing. Any locality may provide by ordinance that substantially the same application will not be considered by the board within a specified period, not exceeding one year.

12-5 APPEAL TO THE BOARD OF ZONING APPEALS

- (a) An appeal to the Board may be taken by any person aggrieved or by any officer, department, board or bureau of the municipality affected by any decision of the

Zoning Administrator or from any order, requirement, decision or determination made by any other administrative officer in the administration or enforcement of this article, any ordinance adopted pursuant to this article, or any modification of zoning requirements pursuant to Section 15.2-2286 of the Code of Virginia.

Notwithstanding any charter provision to the contrary, any written notice of a zoning violation or a written order of the Zoning Administrator dated on or after July 1, 1993, shall include a statement informing the recipient that he may have a right to appeal the notice of a zoning violation or a written order within 30 days in accordance with this section, and that the decision shall be final and unappealable if not appealed within 30 days. The appeal period shall not commence until the statement is given. The appeal shall be taken within 30 days after the decision appealed from by filing with the Zoning Administrator, and with the Board a notice of appeal specifying the grounds thereof the Administrator shall forthwith transmit to the Board all the papers constituting the records upon which the action appealed was taken.

- (b) An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board that, by reason of facts stated in the certificate, a stay would in his opinion cause imminent peril to life or property in which case proceedings shall not be stayed otherwise than by a restraining order granted by the board or by a court of record, on application and on notice to the Zoning Administrator and for good cause shown.
- (c) In no event shall a written order, requirement, decision or determination made by the Zoning Administrator or other administrative officer be subject to change, modification or reversal by any Zoning Administrator or other administrative officer after 60 days have elapsed from the date of the written order, requirement, decision or determination where the person aggrieved has materially changed his position in good faith reliance on the action of the Zoning Administrator or other administrative officer unless it is proven that such written order, requirement, decision or determination was obtained through malfeasance of the Zoning Administrator or other administrative officer or through fraud. The 60-day limitation period shall not apply in any case where, with the concurrence of the attorney for the governing body, modification is required to correct clerical or other nondiscretionary errors.

12-5 APPEAL PROCEDURE

- (a) Appeals shall be mailed to the Board of Zoning Appeals, in care of the Zoning Administrator and a copy of the appeal mailed to the Secretary of the Planning Commission. A third copy shall be mailed to the individual, official, department or agency concerned, if any.

12-6 PUBLIC HEARING

The Board shall fix a reasonable time for the hearing of an application or appeal, give public notice thereof, as well as due notice to the parties in interest and decide the same within ninety (90) days after the hearing. In exercising its powers, the Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from the concurring vote of a majority of the membership of the Board shall be necessary to reverse any order, requirement, decision or determination of any administrative officer or to decide in favor of the applicant on any matter upon which it is required to pass under the ordinance or to effect any variance from the ordinance.

The Board shall keep minutes of its proceedings and other official action of the board and these shall be public records. The Chairman of the Board or, in his absence, the Vice-Chairman, may administer oaths and compel the attendance of witnesses.

12-7 CERTIORARI TO REVIEW DECISION OF BOARD OF ZONING APPEALS

- (a) Any person or persons jointly or severally aggrieved by any decision of the Board of Zoning Appeals, or any taxpayer or any officer, department, board, or bureau of the municipality or county may file with the Clerk of the Circuit Court of Loudoun County a petition specifying the grounds on which aggrieved within thirty (30) days after the final decision in the office of the Board.
- (b) Upon the presentation of such petition, the court shall allow a writ of certiorari to review the decision of the Board of Zoning Appeals and shall prescribe therein the time within which a return thereto must be made and served upon the relater's attorney, which shall not be less than ten (10) days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from; but the court may on application, on notice to the Board and on due cause shown, grant a restraining order.
- (c) The Board of Zoning Appeals shall not be required to return the original papers, acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds or the decision appealed from and shall be verified
- (d) If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a commissioner to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.
- (e) In the case of an appeal from the Board of Zoning Appeals to the circuit court of an order, requirement, decision or determination of a zoning administrator or other administrative officer in the administration or enforcement of any ordinance or provision of state law, or any modification of zoning requirements pursuant to Section 15.2-2286 of the Code of Virginia, the decision of the Board of Zoning Appeals shall be presumed to be correct. The appealing party may rebut that presumption by proving by a preponderance of the evidence, including the record before the Board of Zoning Appeals that the Board of Zoning Appeals erred in its decision. Any party may introduce evidence in the proceedings in the court.
- (f) In the case of an appeal by a person of any decision of the Board of Zoning Appeals that denied or granted an application for a variance, or application for a special exception, the decision of the Board of Zoning Appeals shall be presumed to be correct. The petitioner may rebut that presumption by showing to the satisfaction of the court that the Board of Zoning Appeals applied erroneous principles of law, or where the discretion of the Board of Zoning Appeals is involved, the decision of the Board of Zoning Appeals was plainly wrong and in violation of the purpose and intent of the zoning ordinance.

- (g) Costs shall not be allowed against the Board unless it shall appear to the court that it acted in bad faith or with malice in making the decision appealed from. In the event the decision of the Board is affirmed and the court finds that the appeal was frivolous, the court may order the person or persons who requested the issuance of the writ of certiorari to pay the costs incurred in making the return of the record pursuant to the writ of certiorari. If the petition is withdrawn subsequent to the filing of the return, the Board may request that the court hear the matter on the question of whether the appeal was frivolous.

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DEFINITIONS

13-1 DEFINITIONS GENERALLY

- (a) Words used in the present tense include the future tense; words in the singular number include the plural number and words in the plural number include the singular number; unless the obvious construction of the working indicates otherwise.
- (b) The word "shall" is to be interpreted as being mandatory.
- (c) Unless otherwise specified, all distances shall be measured horizontally and at right angles to the line in relation at which the distance is specified.
- (d) The word "building" includes the word "structures;" the word "lot" includes the words "plot" and "parcel."
- (e) The word "used" shall be deemed also to include "erected," "reconstructed," "altered," "placed," or "moved."
- (f) The terms "land use" and "use of land" shall be deemed also to include "building use" and "use of building."
- (g) The word "Town" means the Town of Lovettsville.
- (h) The word "state" means the Commonwealth of Virginia.
- (i) The word "county" means the County of Loudoun, Commonwealth of Virginia.
- (j) The word "person" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.
- (k) The term "Code of Virginia" shall include "as amended."

13-2 DEFINITION OF CERTAIN TERMS

For the purpose of this ordinance, certain words and terms are herein defined as follows:

ACCESSORY APARTMENT: A secondary dwelling unit established in conjunction with and substantially smaller than the single-family dwelling unit or commercial establishment to which it is attached. Accessory apartments may be contained within the primary structure or may be situated within a secondary structure on the property. Accessory apartments shall not exceed twenty-five percent (25%) of the area of primary structure

ACCESSORY BUILDING: A subordinate building whose function is incidental to and located on the same lot as the principal building.

ACCESSORY COMMUNITY USE: Ancillary to residential use and includes such uses as swimming pools, clubhouses, community rooms, fitness centers, flower and sitting gardens.

ACCESSORY USE: A use of land customarily incidental to the principal use of the land and, located on the same lot as such principal use.

AGRICULTURE: The cultivation of the soil for the purpose of raising crops, horticulture and forestry to include the keeping of animals.

ALLEY: A public travel way which affords secondary access to abutting property.

APARTMENT: A dwelling unit within a structure containing three (3) or more dwelling units. The term apartment shall include units in apartment houses, garden apartments and apartment hotels.

APARTMENT HOUSE: A building used or intended to be used as a dwelling by three (3) or more families living independently of each other and who do their cooking therein.

ASSISTED LIVING: See CONGREGATE HOUSING

AUTOMOBILE FILLING STATIONS: A building used or intended to be used for the retail sale of fuels, lubricants, air, water and other operating commodities for motor vehicles, including the space and facilities for the installation of such commodities, and, in addition, the space for facilities for the storage, minor repair and servicing of said vehicles, but not to include body repair, painting, steam cleaning, rust, proofing and refinishing.

AUTOMOBILE WRECKING YARD: An area where destroyed abandoned, and obsolete automobiles are disassembled and where parts of said disassembled and automobiles are sold, and where the remaining automobile bodies and their components are temporarily stored until they can be removed or reduced to scrap metal

BALCONY: A structure or platform built outward from a building, but part of the actual building, above the ground level floor area for the purpose of providing a walkway, sitting, or standing area. Structure may or not be enclosed.

BASE FLOOD: The flood having a one percent (1%) chance of being equaled or exceeded in any given year; also referred to as the 100 year flood.

BASE FLOOD ELEVATION (BFE): The Federal Emergency Management Agency designated one hundred (100) year water surface elevation.

BASEMENT: A story partly underground and having at least one half (1/2) of its height above ground (curb level).

BED AND BREAKFAST HOMESTAY: A private, owner-occupied dwelling in which the frequency and volume of paying guests is incidental to the primary use of the building as a private residence. The establishment shall not contain restaurant facilities, but may provide food service for transient guests only.

BED AND BREAKFAST INN: A business operated in a structure which is used primarily for providing overnight accommodations to the public, even though the owner or manager may live on the premises. The number of guest rooms may range from four (4) to no more than twenty (20). The establishment shall not contain restaurant facilities, but may provide food service for transient guests only.

BERM: A landscaped earthen mound intended to screen, buffer, mitigate noise and generally enhance views of parking areas, storage areas or required yards, particularly from public streets or adjacent uses.

BLOCK: An area bounded on all sides by streets or a combination of street lines, railroad rights-of-way, un-subdivided land, rivers, live streams, or any other barriers to the continuity of development.

BOARDING HOUSE: A dwelling where, for compensation, lodging and meals are provided for not more than fourteen (14) persons.

BUILDABLE AREA: The buildable area of a lot is the space remaining after the minimum yard requirements of this ordinance have been complied with.

BUILDING: A structure having a roof, supported by columns or by walls and intended for the shelter, housing or enclosure of any person, animal or personal property.

BUILDING FOOTPRINT: The area on the ground surface covered by the building.

BUILDING LINE: A line that is parallel to the front, side or rear lot line and is set so as to provide the required yard.

CAMPER: A portable, detachable unit designed to be carried upon pick-up truck intended as a temporary dwelling for travel recreation or vacation.

CELLAR: A portion of a building having more than one half (1/2) of its height below ground curb level.

CHANNEL: A natural or artificial watercourse of perceptible extent with a definite bed and banks to confine and conduct continuously or periodically flowing water. "Channel flow", thus, is that water which is flowing within the limits of the defined channel.

CHILD CARE CENTER: A licensed establishment which offers care, protection and supervision for compensation to more than nine (9) children at a time during any twenty-four (24) hour period, and then only for part of any twenty-four (24) hour day. A Child Care Center may include nursery schools, kindergartens or other facilities for which the purpose is primarily educational, recreational, or medical treatments.

CHILD CARE HOME: A single-family detached, duplex or townhouse dwelling which offers care, protection and supervision for compensation to more than four (4), but not more than nine (9) children at a time during any twenty-four (24) hour period, and then only for part of any twenty-four (24) hour day.

CONGREGATE HOUSING: A structure other than a single family dwelling where more than four (4) un-related persons reside under supervision for special care, treatment, training, or similar purposes, on a temporary or permanent basis.

CONSTRUCTION: Any site preparation, assembly, erection, substantial repair, alteration, demolition, or similar action.

CONSTRUCTION AND/OR SALES TRAILER: A structure standing on wheels, towed or hauled by another vehicle and used temporarily for sales of the units in the subdivision, or subdivision section, in which the trailer is located; and in which sales and construction of units is planned or underway.

COUNTRY INN: A business which offers accommodations and dining. Overnight accommodations are available and full service restaurant provides breakfast, lunch and/or dinner to guests and the general public. The number of guest rooms shall not exceed twenty (20).

COURT: An open unoccupied space other than a yard on the same lot with a building or group of buildings and which is bounded on two (2) or more sides by such building or buildings.

COVERAGE: Percentage of the total lot area which may be occupied by buildings.

DECK: A platform or structure built out from the building structure that is not part of the building, rather it is added to the structure for purposes of a walkway, sitting or standing area. A deck can be on the ground level or be build above the ground level on a separate foundation or pilings that are set into the ground to maintain the weight of the platform or structure and may be built from a number of different types of material that meet safety standards. Decks may project into any required yard other than a front yard provided that the structure is not less than fifteen (15) feet from the property line of the residence.

DEVELOPMENT: Any man-made change to improved or unimproved real estate, including, but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

DISTRICT: A portion of the Town of Lovettsville within which, on a uniform basis, certain uses of land and buildings are permitted and certain other uses of land and buildings are not permitted as set forth in this ordinance, and within which certain yards and other open spaces are required and within which certain lot areas are established or within which a combination of such aforesaid conditions are applied.

DUPLEX, VERTICAL: A building containing two separate dwelling units that are constructed with a common party wall extending from ground to roof and with each dwelling unit located on its own separate lot. Each unit having separate exterior entrances.

DWELLING: One (1) or more rooms connected together, constituting a separate unit for a single family owner occupancy or rental or lease, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities

DWELLING, ATTACHED: A dwelling having any portion of each two (2) walls in common, with adjoining dwellings.

DWELLING, DETACHED: Either of two (2) dwellings, both of which is entirely free standing on the same lot.

DWELLING, SEMI—DETACHED: A dwelling having any portion of one (1) wall in common with an adjoining dwelling.

DWELLING, GROUP: An arrangement of two (2) or more detached dwellings occupying a zoning lot.

DWELLING, MULTIPLE: A dwelling having three (3) or more dwelling units.

DWELLING, SINGLE FAMILY: A dwelling used or intended to be used exclusively for one (1) dwelling unit.

DWELLING, TWO—FAMILY: A dwelling having two (2) dwelling units, one (1) above the other or a dwelling having two(2) units side by side, both using a common exterior entrance.

DWELLING UNIT: One (1) room or a group of two (2) or more rooms used or intended to be used by one family for living and sleeping purposes, and having only one (1) kitchen, or kitchenette.

FAMILY: One (1) person, or a group of two (2) or more persons, living together and interrelated by blood, marriage, or legal adoption, occupying a dwelling unit, or part of a dwelling unit as a separate housekeeping unit with a common set of cooking facilities. The persons constituting a family may also include foster children and domestic servants.

FENCE: A barrier, usually made of posts and boards or wire, intended to prevent escape or intrusion or to mark a boundary. Trees, shrubbery, or other foliage does not constitute a fence under this definition.

FITNESS CENTER: Health club, athletic club or physical fitness facilities.

FLOOD: A general and temporary condition of partial or complete inundation of normally dry land areas from the unusual and rapid accumulation of runoff of surface waters or a temporary rise in stream flow that results in water overtopping its banks and inundating areas adjacent to the channel.

FLOODPLAIN: Any land area susceptible to being inundated by water from any source as a result of the regulatory flood.

FLOODWAY: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

FLOOR AREA: The floor area of a building or buildings is the sum of the gross horizontal areas of the several floors of all buildings on the lot, measured from the exterior faces of exterior walls. Floor area shall include the area of basements when used for residential, commercial, or industrial purposes but shall not include a basement or portion of a basement used for, storage or housing of mechanical or central heating equipment.

FREEBOARD: A factor of safety usually expressed in feet above a flood level for purpose of floodplain management.

GARAGE, COMMUNAL: A garage used for the storage of vehicles for occupants of lots, in the same or adjacent block or blocks.

GARAGE, PRIVATE: An accessory building used for the storage of vehicles by the occupants of a lot on which such building is located.

GARAGE, PUBLIC: An accessory building, portion of a principal building or principal buildings used for the storage of four (4) or more vehicles by persons not residing on the lot on which such building is located.

GARDEN APARTMENT: A structure not more than three (3) stories in height, which contains at least three (3) but not more than twelve (12) apartment units

GOVERNMENT BODY: The Town Council of Lovettsville, Virginia.

HEALTH OFFICIAL: The legally designated health authority of the State Board of Health, for the Town of Lovettsville or his authorized representative.

HEIGHT OF BUILDING: In all zoning districts, except the Town Center Planned Development District T-C, building height shall be calculated as the vertical distance measured from the average elevation of the finished grade adjoining the building at 1) the front elevation and 2) any two of the other elevations, to either the highest point of a flat roof or to a point that is the average distance between the highest eave or top edge of the highest wall and the highest roof point for buildings (directly related to the three elevations used in the calculation) with other types of roofs.

HOME OCCUPATION: Any ongoing activity carried out for gain by a resident and conducted in the resident's dwelling unit.

HOTEL: A building designed or occupied as the more or less temporary abiding place for persons who are, for compensation, lodged with or without meals, and in which provision, is not made for cooking in individual rooms or suites.

INFILL DEVELOPMENT: The development of new housing or other new buildings on scattered vacant sites in a previously developed or built up area.

INOPERABLE VEHICLE: Any vehicle which does not display the following: (1) currently valid state license plate(s); (2) valid inspection certificate (if required) for the state in which the vehicle is licensed; and (3) a currently valid Town license plate or other device, as required by Town ordinance. However, farm vehicles and other vehicles which are exempted from the requirements of displaying Virginia license plates, under

the provisions of Articles 4, 5 and 6 of Chapter 6 of Title 46.2 of the Code of Virginia, 1950, as amended, are not included in this definition.

INSTITUTIONAL: Including churches, hospitals, access health care, private trade or higher education schools, and conference facilities.

JUNK YARD: An establishment or place of business which is maintained, operated, or used for storing, keeping, housing, or buying junk or for the maintenance or operation or an 'automobile graveyard' which is any lot or place, exposed to the weather, upon which more than five (5) motor vehicles of any kind, incapable of being operated are placed.

LARGE LOT DEVELOPMENT: A development which combines more than one (1) lot, but less than twenty-five (25) large lots as defined in this Ordinance, under one ownership for the purpose of creating an infill development.

LIGHT VEHICLE REPAIR: Buildings and premises the primary use of which is the mechanical repair of vehicles with not more than three and one-half (3.5) tons gross weight and the retail supply and replacement of oil, batteries, tires and motor vehicle accessories for; and where services may be rendered and sales made related to oil changes, brake and muffler replacement, auto washing and detailing. Permissible uses may not include auto body work or cause fumes, smoke, noise or glare. Outdoor parking of vehicles is not permitted for more than two consecutive weeks, except on a daily basis for employees and customers. Junk, or inoperable vehicles, as defined in Section 4-12, may not be stored outdoors.

LOCATION PERMIT: A permit required by the Town for the construction of new building, exterior structural changes in existing buildings and the demolition of existing buildings.

LOCATION PLAN: Shows where structures, additions to structures and related facilities, such as parking and driveways are to be built on a site or where an existing building is located that is proposed for demolition.

LOT: A parcel of land, occupied or intended for occupancy by a use permitted by the provisions and requirements of this ordinance, which has a frontage on a street or an officially approved private means of ingress and egress,

LOT OF RECORD: A lot which has been recorded in the Clerk's Office of the Circuit Court of Loudoun County.

LOT, CORNER: A lot abutting on two (2) or more streets at their intersection.

LOT COVERAGE: The part or percent of the lot occupied by buildings or structures, including accessory buildings or structures.

LOT, DEPTH: The average of the horizontal distances between front and rear lines of a lot measured perpendicular to the street line

LOT, INTERIOR: Any lot other than a corner lot.

LOT, IRREGULAR: A lot, usually, but not always, with sole access from a private street or private access easement, which is so located, shaped or oriented to adjacent lots that application of general measurement methods or dimensional yard requirements of the district in which it is located serve no significant public purpose; and/or a lot with location of yards by type not logically determined by or related to, yard patterns on nearby regular lots.

LOT, PIPESTEM: A lot that does not abut a public street other than by its driveway, which affords access to the lot.

LOT, THROUGH (DOUBLE FRONTAGE): A lot, other than a corner lot, which has a frontage on two (2) streets.

LOT, WIDTH OF: The horizontal distance between the side lines of a lot measured along the building setback line.

LOWEST FLOOR: The lowest floor of the lowest enclosed area (including basement).

MEDICAL AND HEALTH SERVICES: Includes, but is not limited to, such businesses as medical offices, clinics, tanning salon, yoga, spiritual and healing arts centers, massage therapy.

MOBILE HOME: A mobile home is an industrialized building unit constructed on a chassis for towing to the point of use and designed to be used without a permanent foundation for continuous year round dwelling; or two (2) or more such units separately towable, but designed to be joined together at the point of use to form a single dwelling, and which is designed for removal to, and installation or erection on, other sites

MODEL HOME: A building having the physical characteristics of a residential dwelling, which exists for the purpose of display or advertising in connection with the sale of units in a residential development on a temporary basis. It may incorporate an office use that is directly related to the sales function of the building. The ultimate intended use of such a building is as a dwelling.

MOTEL: One or more buildings containing individual sleeping rooms used or designed to be rented, let or hired out for compensation by automobile tourists Or other transients whether the compensation is paid directly or indirectly. This shall include motor hotels, tourist courts, motor lodges and the like.

MOTOR HOME: A self-propelled vehicle intended to serve as a temporary dwelling for travel, recreation or vacation.

NONCONFORMING STRUCTURE: An otherwise legal building or structure that does not conform with the lot, area, yard, height, lot coverage, or other area regulations of this ordinance, or is designed or intended for a use that does not conform to the use regulations of this ordinance for the district in which it is located either at the effective date of this ordinance or as a result of subsequent amendments to the ordinance.

NONCONFORMING LOT: At otherwise legally platted lot that does not conform to the minimum area or width requirements of this ordinance for the district in which it is located at the effective date of this ordinance or as a result of subsequent amendments to the ordinance.

NONCONFORMING ACTIVITY (USE): The otherwise legal use of a building, structures, or tract of land that does not conform to the use regulations of this ordinance for the district in which it is located, either at the effective date of this ordinance or as a result of subsequent amendments to the ordinance.

NURSING HOME or EXTENDED CARE FACILITY. A place devoted primarily to the maintenance and operation of facilities for the treatment and care of any person suffering from illnesses, diseases, deformities or injuries not requiring extensive and/or intensive care that is normally provide in a general hospital or other specialized hospital.

OFF-STREET PARKING AREA: Space provided for vehicular parking, outside the dedicated street right-of-way.

PARKING SPACE: An area of no less than nine (9) feet wide by eighteen (18) feet long, for each automobile for motor vehicle, such space being exclusive of necessary drives,

aisles, entrances, or exits and being fully accessible for the storage or parking of permitted vehicles.

PATIO: An internal, uncovered courtyard or paved backyard area usually with an impervious surface for use by people for social or recreational purposes rather than as a parking space.

PERFORMING ARTS CENTER: A facility for the presentation and viewing of performing arts.

PERSONAL SERVICES: Includes, but is not limited to, such businesses as hair or nail parlors, travel agencies, financial and mortgage services, martial arts studios, insurance, real estate, and arts instruction.

PORCHES: An open, unenclosed stoop or paved terrace which may project into a front yard for a distance not exceeding ten (10) feet, but this shall not be interpreted to include porches which may be enclosed by windows or fixed canopies. A one-story bay window may project not more than three (3) feet beyond the front line of the building

PROFESSIONAL OFFICE: The office, studio or occupational room of a doctor, architect, artist, musician, lawyer or similar professional person or of a person engaged in the real estate or insurance business, excepting any mortuary, or any establishment where goods are offered for sale, provided not more than two (2) persons engaged in the occupation other than the principal practitioner (or in the case of two (2) doctors with offices in the same structure, not exceeding two (2) employees for each practitioner; and provided that, whenever a professional office is located within a residential district, such use is conducted within a building retaining the residential character of the neighborhood.

PUBLIC UTILITIES: A company, government agency, or other entity that is regularly engaged in providing electricity, water, sanitary sewer, gas, telephone, fiber optic, cable or similar communications and the facilities and appurtenances thereto, under Federal or State or local regulation.

RECREATIONAL VEHICLE: A travel trailer, motor home, camper or similar apparatus intended as a temporary dwelling for travel, recreation or vacation. This definition shall include self—propelled vehicles, towed vehicles, and portable units.

RELIGIOUS FACILITIES: Includes, but is not limited to, such facilities for worship as churches, mosques, temples, and synagogues.

RETAIL SALES AND SERVICE FACILITIES: Includes, but is not limited to, such businesses as for restaurants, cosmetics, sports equipment, clothing, shoes, food, hardware, electronics and communications, games, gifts, health products, cards and stationery, jewelry sales and repair, frames and posters, furniture, mailing and copying, office supplies, bicycles, antiques, flowers and plants, photography, books and magazines, paint and wallpaper. Services, such as repair services, have to be adjunct to related sales.

ROOMING HOUSE (LODGING HOUSE): A building other than a hotel where lodging is provided for three (3) or more persons for compensation pursuant to previous arrangements but not open to the public or transients.

SCREENING: A well maintained fence, wall, hedge, or vegetative material at least five (5) feet in height and of sufficient density to conceal from view the structures and uses on the premises on which the screening is located

SETBACK: The minimum distance by which any building or structure must be separated from any lot line.

SIGN, BUSINESS: A sign which directs attention to a business, community service, activity, or product sold, conducted or offered upon the premises where such sign is located.

SIGN, GROSS AREA OF: The “gross area” of a sign shall be the entire area within a single continuous perimeter enclosing the extreme limits of such a sign; such perimeter shall not include any structural elements lying outside the limits of such a sign and not forming an integral part of the display.

SIGN, HOME OCCUPATION: A sign not exceeding four (4) square feet, in an area directing attention to a product, commodity, or service available on the premises, but which product, commodity or service is clearly a secondary use of the dwelling.

SIGN, IDENTIFICATION: A sign bearing the name of a subdivision, a group housing project, a school, college, park, church, or other public or quasi-public facility, or a professional or firm name net, but bearing information pertaining only to the premises on which such sign is located.

SIGN, OUTDOOR ADVERTISING: Any sign of any materials and any character whatsoever, located outside any structure or inside a structure but clearly visible on the outside thereof, displaying any advertising information whatsoever. The term “billboard” is covered by this definition.

SIGN, TEMPORARY: A sign applying to a seasonal or other brief activity such as, but not limited to, summer camps, horse shows, auctions, or sale of land.

STORAGE CONTAINER, PORTABLE: A fully enclosed, box-like container with or without signage on its outer surfaces that is designed for temporary storage of personal property, household goods and/or equipment or building materials on residential lots. Such containers are uniquely designed for ease of loading to and from a transport vehicle. They may not exceed 8 feet in height, 10 feet in width and 16 feet in length. The temporary portable storage container is not deemed an accessory structure.

STORY, HALF: A space under sloping roof, which has the line of intersection of roof decking and wall face not more than three (3) feet above the top floor level and in which space not more than two-thirds (2/3) of the floor area is finished off for use.

STREET (ROAD): A public thoroughfare, except an alley or driveway which affords vehicular traffic circulation and principal means of access to abutting property.

STREET LINE: The dividing line between a Street or road right-of-way and the contiguous property.

STRUCTURAL ALTERATION: Any change in the supporting members of a building or structures, such as bearing walls, partitions, columns, beams or girders, or any change in the width or number of exits or substantial change in the roof.

STRUCTURE: Anything constructed or erected, the use of which requires permanent location of the ground, or attachment to something having permanent location of the ground.

STRUCTURE, OUTDOOR ADVERTISING: Any structure of any kind or character erected or maintained for outdoor advertising purposes, upon which any outdoor advertising sign may be placed, including outdoor advertising statuary.

SUBSTANTIAL DAMAGE (IN A FLOODPLAIN): Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT (IN A FLOODPLAIN): Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before "start of construction" of the improvement. This term includes structures which have incurred "substantial damage" regardless of the actual repair work performed. The term does not, however, include either: (i) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum, necessary to assure safe living conditions or (ii) any alteration of a "historic structure", provided that the alteration will not preclude the structures continued designation as a "historic structure".

TOURIST HOME: A dwelling in which overnight accommodations are provided or offered for three (3) or more transient guests.

TOWNHOUSE: At least three (3), but not more than eight (8) attached, single family dwelling units forming a continuous structure, each being separated by common or party walls or solid masonry construction.

TRAVEL TRAILER: A vehicular, portable structure built on a chassis designed to be towed and intended as a temporary dwelling for travel recreation or vacation. This definition shall include travel trailers with rigid or collapsible Sides.

USE: The purpose of activity for which land buildings thereon is designed, arranged, or intended or for which it is occupied or maintained, and shall include any manner or performance of such activity with respect to the performance standards of this ordinance.

VARIANCE, A reasonable deviation from those provisions of this ordinance regulating the size or area of a lot or parcel of land, or the size, area, bulk or location of a building or structure when the strict application of the ordinance would result in unnecessary or unreasonable hardship to the property owner, and such need for variance would not be shared generally by other properties, and provided such variance is not contrary to the intended spirit and purpose of the ordinance and would result in substantial justice being done. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning district or adjoining zoning districts.

VETERINARY HOSPITAL. A facility where pets and animals are given medical and/or surgical treatment and the indoor boarding of such animals is limited to short-term care incidental to the hospital use.

WIRELESS COMMUNICATIONS EQUIPMENT: Sending and receiving antennas attached to a tower or similar structure, such as a steeple or silo, and a prefabricated or modular structure of cabinets containing electronic hardware. For purposes of this ordinance, amateur radio transmission equipment is not classified as wireless communications equipment.

YARD: An area on the same lot with a building or group of buildings, lying between the building or building group and the nearest lot line, unobstructed from the ground upward

and unoccupied, except by specific uses and structures permitted by the provisions of this Ordinance.

YARD, FRONT: A yard extending across the full width of a lot and lying between the front lot line and the principal building.

1. On a corner lot, the two (2) yards lying between the principal building and the intersecting streets shall both be deemed to be front yards.
2. On a through lot the two (2) yards lying between the principal building and the two (2) opposite public streets shall be deemed to be front yards; provided, however, that for the purposes of section 4-7 (a), the yard on the opposite side of the principal building from the primary entrance into the principal building shall be deemed the rear yard.
3. On a pipestem lot or a lot abutting a pipestem driveway, any yard contiguous to the pipestem driveway shall be deemed a front yard and shall be measured from the lot line formed by the pipestem. The minimum and maximum front yard shall be that required in the zoning district. The Zoning Administrator may waive these requirements if the circumstances warrant and undue negative impact on adjacent lots is not caused.
4. On an irregular lot yard requirements for regular lots shall be followed where possible with the determination to be made by the Zoning Administrator.

YARD, REAR: A yard extending across the full width of the lot and lying between the rear lot line and the principal building. On a corner lot the rear yard shall be that yard on the opposite side of the principal building from the front lot line where the primary building entrance is located, which extends from the front yard line on the one side to the opposite side lot line.

YARD, SIDE: A yard between the side lot line and the principal building extending from the front yard to the rear yard. In the absence of either a front or rear yard it extends to either the front or rear lot line, as the case may be.

ZONING ADMINISTRATOR: The representative of the Town Council of Lovettsville, Virginia, who has been appointed to serve as the agent of the council in the enforcement of the Zoning Ordinance.

ZONING MAP

Town of Lovettsville

Zoning Map

Zoning District Classifications:

- CR1 Countryside Residential
- PIDD Planned Infill Development District
- R-1 Residential
- R-2 Residential
- R-3 Residential
- T-C Town Center
- C-1 Community Commercial
- C-2 Mixed Use Business
- I-1 Light Industrial

This official Zoning Map is updated as necessary and reflects zoning as of this map's publication date of December 10, 2008.